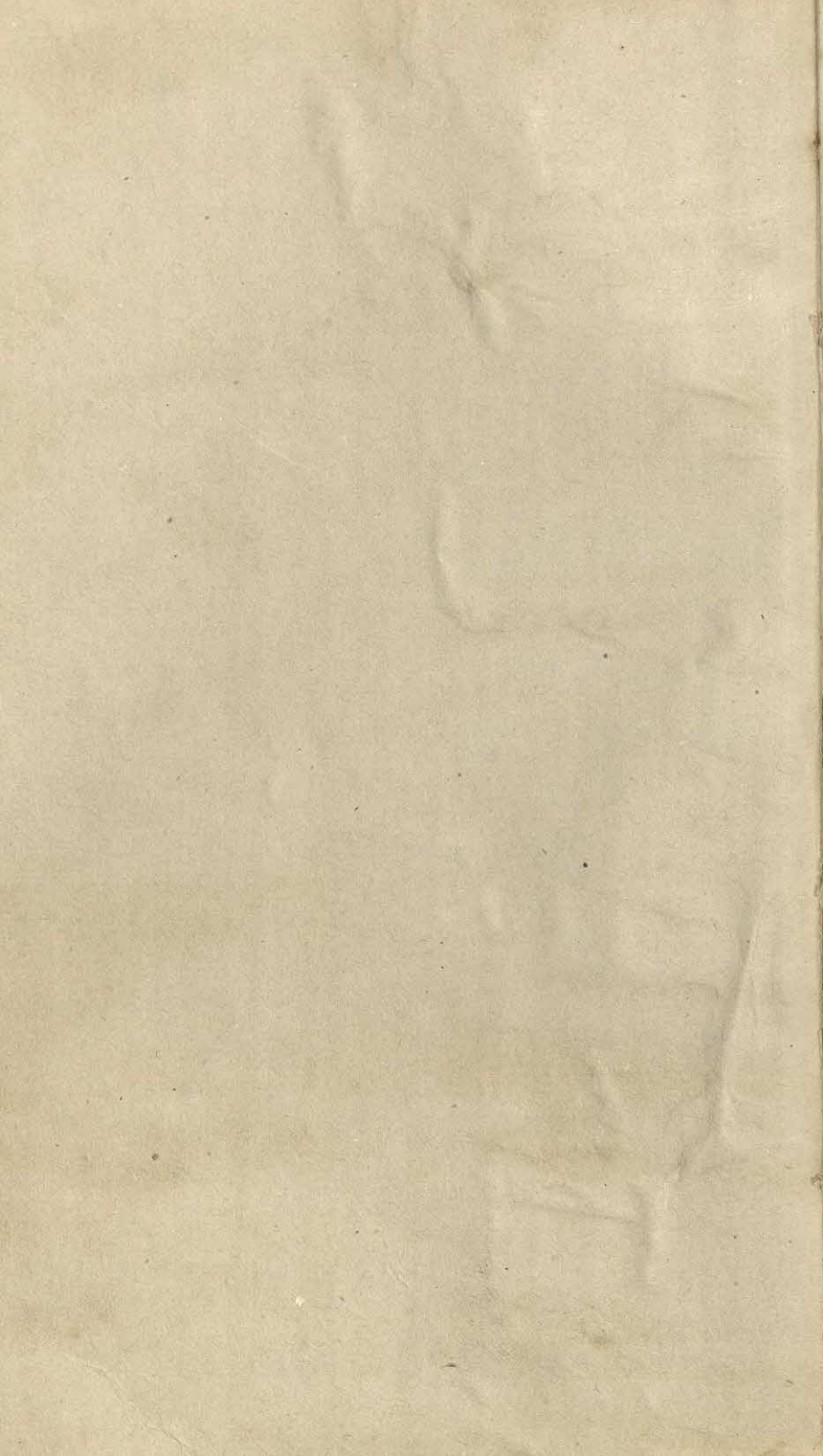
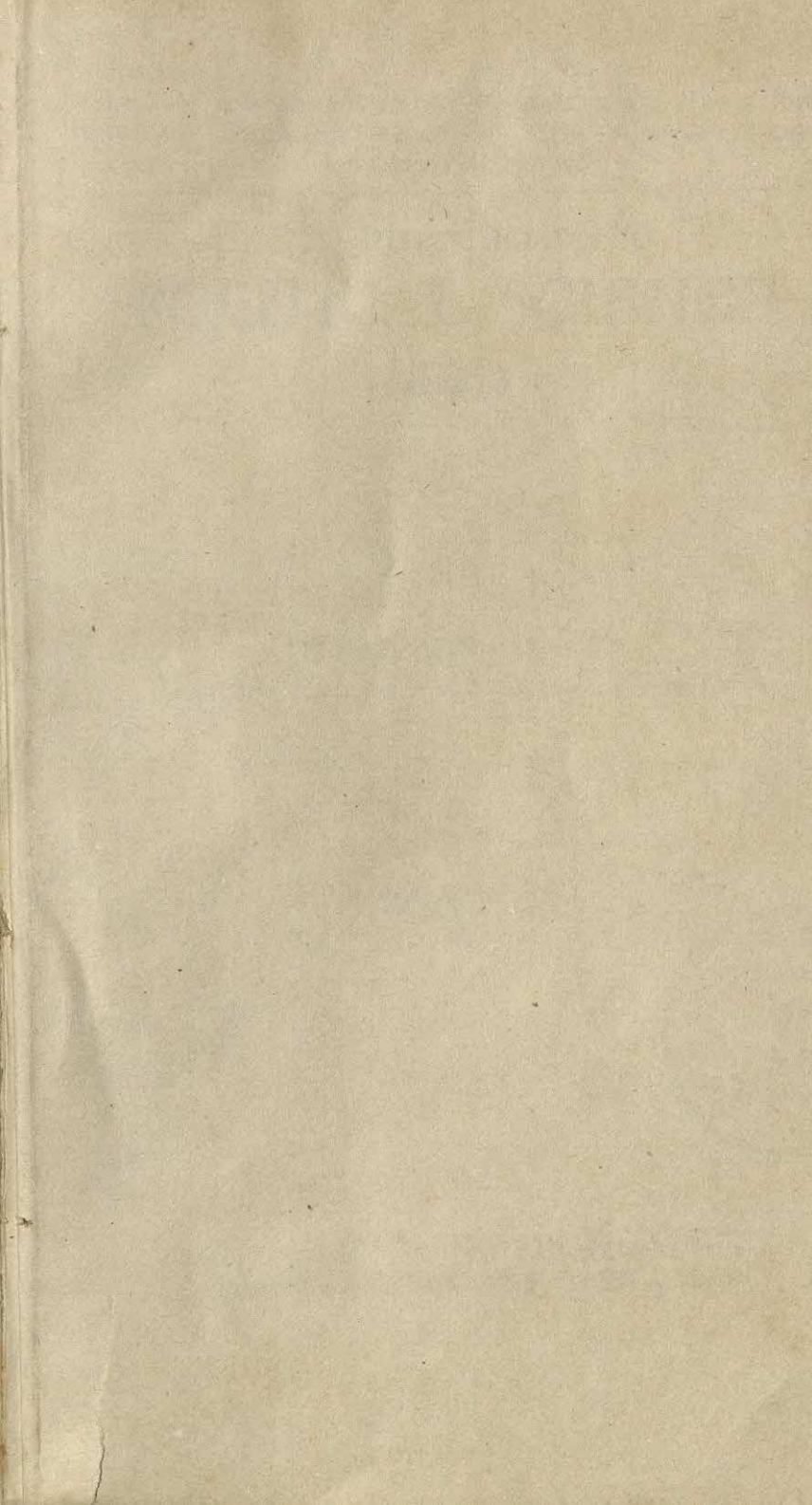


An
Introduction to
POLITICAL
SCIENCE

UTPAL RAY

Calcutta Book House





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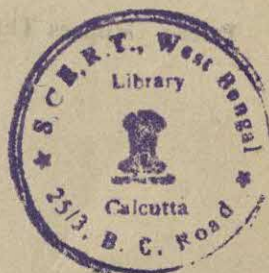
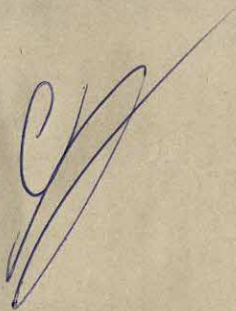
[PAPER I & II]

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PREFACE TO THE REVISED EDITION, 1985

Higher Secondary Political Science was received so well by the teachers and students alike that the author felt encouraged to bring out this revised edition written in accordance with new syllabus prescribed by West Bengal Council of Higher Secondary Education to be introduced from the academic session 1985-86.

Most of the chapters have been reorganized and re-edited and brought up-to-date. A new chapter (Some Major Political Theories) has been written as prescribed in the new syllabus. Some new discussions have been added in consistency with the previous years' questions of the H. S. Council. Hope, this revised edition will receive the appreciation of the teachers and students. The author will be inspired if readers send their considered views and suggestions for improvement.

I wish to express my indebtedness to my colleague, Prof. Subhas Bhattacharjee who read the whole book when it was at the manuscript stage, and made many valuable suggestions. I am also thankful to Shri Paresh Chandra Bhowal and Shri Chanchal Bhowal, the publishers, who have managed to bring this edition to light.

1st July, 1985
Katwa College,
Katwa, Burdwan.

Utpal Roy,

"It is the function of the political theorist to see, sooner than others, and to analyse, more profoundly than others, the immediate and the potential problems of the political life of the society; to supply the practical politician, well in advance, with alternative course of action, the foreseeable consequences of which has been fully thought through, and to supply him not only with brilliant asides, but with a solid block of knowledge on which to build."

—Arnold Brecht

SYLLABUS OF POLITICAL SCIENCE

Full Marks—200

Paper I (Marks : 100)

1. What is Political Science ? Definition, Nature and Scope—Relation with other Social Sciences : History, Economics, Sociology, Psychology and Ethics.
2. The State—Definition of the State ; Characteristics of the State.
3. Sovereignty ; its characteristics.
4. Theories of State Origin : (a) Divine Origin. (b) Force Theory. (c) Social Contract Theory. (d) Evolutionary Theory.
5. Nationality, Nation and Nationalism, Right of self-determination, Nationalism and Internationalism.
6. The United Nations—Objectives, structure and functions.
7. Citizenship—Definition of a citizen—Acquisition and loss of citizenship ; Rights and Duties of a citizen—Civil and Political Rights ; Fundamental Rights of an Indian Citizen—Economic and Social Rights ; Directive Principles in the Indian Constitution.
8. Some major Political Theories — Liberalism, Marxism, Democratic Socialism—Basic Principles.

Paper II (Marks : 100)

1. Constitution—Classification—Nature of the Indian Constitution : Salient features of the Indian Constitution.
2. Forms of Government—Unitary and Federal ; Nature of the Indian Federation—Presidential and Parliamentary ; Nature of the Indian Government ; Presidential or Parliamentary?—Monarchy—Republic—India as a Republic.
3. Democracy—Its different forms—Merits and Demerits—Conditions for the success of Democracy—Dictatorship—Merits and Defects.
4. Organs of Government ; Functions of the different Organs of Government—Theory of Separation of powers—Executive—Functions of Political Executive—Union and State Executives in India—President of India ; Powers and Position—Prime Minister ; Powers and Position of the Prime Minister—Legislature ; Unicameral and Bicameral ; Union Legislature of India ; Its composition and functions—West Bengal State Legislature ; its composition and functions—Process of Law

Making—Judiciary—Independence of the Judiciary—The Indian Judiciary.

5. Public Opinion ; Its importance in a Democracy—Different Organs of Public Opinion—Party System—Types of Multi-party System—Importance of the Party system in Democracy.
6. Adult Franchise ; Arguments for and against.

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An Introduction
To
POLITICAL SCIENCE

FIRST PAPER

Political Science is 'a historical investigation of what the State has been, an analytical study of what the State is, and a politico-ethical discussion of what the State should be'.

—R. G. Gettell

CHAPTER ONE

Nature and Scope of Political Science

The study of political science began in ancient Greece more than two thousand years ago. In fact, the two great Greek scholars, Plato and Aristotle have been regarded over the centuries as the father of political philosophy and the father of political science respectively. Politics and political thinking are sufficiently old and widespread ; but the development of political science as an independent discipline, curiously, is a recent phenomenon. The study of political science as an independent discipline in the intellectually advanced countries of the West is not more than a hundred years old. But because political science has a formidable influence on public life and because its appeal is very widespread, this discipline, a rather young discipline among the social sciences though, has won for itself the recognition as an important field of study.

Informed and inspired by Greek ideas and ideals, political science had so long been nurtured by the traditions of Western civilization and had so long flowed along the traditional stream. This traditional approach is important but is no longer the only point of view.

Ever since the early years of the nineteenth century the socialist thought in general, and the Marxian materialistic interpretation in particular, have dealt a severe blow to the traditional and Western ways of thinking. The development of sociology during the present century prompted political scientists to give more attention to the impact on the discipline of social forces, not considered so far.

In recent years the traditional method of political studies has been criticized by a group of Western political scientists known as Behaviouralists. This crusade against the traditional school is called the Behavioural Revolution, the essence of which is known as Behaviouralism or Empiricism. The Behaviouralists think, as David Easton puts it, the chief limitation of the traditional studies of political science has been that during the last two thousand years no importance has been given to the relation between facts and political theory and to the role of theory¹.

As a result, there have been remarkable changes in political science. The character and dimension of political science are undergoing significant changes owing to the quickly changing political perspective of the world, the rapid and marked development of other social sciences and a demand for inter-disciplinary cooperation among the social sciences. In political science we, therefore, come across many theoretical polemics. There is, in fact, a whole array of conflicting philosophies. We have tried, therefore, to make a proper study of different interpretations and analyses of political science so that there may emerge a clear concept about the discipline.

1-1. Terminology

The discipline now commonly known as political science has been variously named by scholars at different times. Aristotle, the celebrated Greek philosopher and father of political science, called it Politics. On the other hand, names like Political Philosophy, Theory of the State are also used. In modern times, however, Political Science is the most accepted name for the subject. We may now proceed to examine what these different names signify.

A. Politics

Aristotle used the term 'Politics' to mean the same thing as the term 'Political Science' means today. The term Politics was used to indicate the principles and working of the ancient Greek city-states. This name for the subject was afterwards advocated by scholars like

1. David Easton—*Political System*, P. 4.

Sidgwick and Lord Acton. They divided politics into two parts: theoretical politics and applied politics. In their opinion, the origin of the State, its characteristics, its nature and formation come within the scope of theoretical politics. Applied politics, on the other hand, deals with government.

Some modern scholars think that the term 'Politics' does not exhaustively describe the scope of this discipline. They, therefore, are against calling it by that name. The name 'Political Science' includes more subjects within its scope than the name 'Politics' does. 'Politics' is narrow in scope—for, it cannot embrace all subjects that 'Political Science' discusses.

B. Political Philosophy

Some political scientists have described political science as political philosophy. They prefer this name probably because they believe that political philosophy has a considerable role in the development of political insight and speculations. But political science is considerably wide in scope—and political philosophy is just a part of it. Political science deals with many other subjects besides political ideals and political philosophy. So if we call it Political Philosophy we will run the risk of restricting its range and of getting a partial and incomplete view of its scope.

C. Theory of the State

Some political scientists, as we have seen above, have advocated the use of the description 'Theory of the State'. But since theory of the state is mainly concerned with the theoretical aspects of the State, it fails to include within its scope the origin of the State, its formation, features and the government.

D. Political Science

Most modern scholars observing the vastness and depth of the discipline are inclined to use the term 'Political Science'. The scope of political science nowadays is not limited to the study of the origin and nature of the State. The government of a state, the various experiments with regard to government, and all discussions about government are now within the realm of this discipline. This has led some scholars to favour the use of the name Political Science and Government. This name, they think, describes the scope of the subject better, since the term political science con-

Political Science
—accepted by a
majority of scholars

notes the whole range of knowledge of state and governments and other related issues. It also includes both theoretical and practical aspects of politics. Political science is a better name for a discipline which discusses *that part of social science which treats of the foundations of the State and the principles of Government.*

1-2. Definition of Political Science

Scholars have suggested different definitions of political science but as yet a generally accepted definition has not emerged. S. L. Wasby thinks that the change in the character and dimension of political science and the uncertainties about its scope have resulted in confusion and difference of opinion. Obviously, therefore, we do not get a definition which is accepted on all hands. In fact, there are almost as many definitions as there are political scientists. We will here take up the more important definitions and analyse them.

A. State-Oriented Definition

A group of political scientists believe that because man is a political creature, his life develops round the State. It is the political trends and situations that determine the direction and nature of man's life and existence. So political science, according to these scholars, is that discipline which deals with the state in so far as it is associated with man's political life. In other words, the discussions that deal with and influence man's political life come within the scope of political science.

Bluntschli, the celebrated German authority has seen political science from the above point of view. For him, political science is the science of the State. Laski, the famous political scientist, too, thinks that *political science concerns itself with the life of men in relation to organized states.* Garner is more specific. He says that *political science begins and ends with the state.* John Seeley observes that *political science investigates the phenomena of government.*

The above definitions are all state-centric ones. W. J. M. Mackenzie describes this state-centric definition of political science as *statecraft.* In his opinion he state-centric discussion of political science is bound to be unduly legalistic, artificial and arbitrary. David Easton, too, thinks that such discussions are just an explanation of political organization in its wide connotation. The state-centric definition fails to explain factors that give events political colour and essence.

B. State-Independent Definition

This limitation of the state-centric outlook has led the Behavi-

ouralists to initiate the discussion that political science is not only independent of the state but it also refuses to take notice of the study of the state. According to them, political science is the study of power, authority and influence. As H. Lasswell, the well-known American scholar puts it: *Political science as an empirical discipline is concerned with the study of the shaping and sharing of power and it refers to political acts performed in power perspectives.*

The definition of political science is an example of the stateless point of view. Some scholars think that there is a motive behind this disregard of the state and behind this empirical and behavioural approach. In a society where one class rules over and oppresses the others, the state acts as an agent of oppression. There is reason to believe that the plea for 'state-free' political science by the Behaviouralists is a veiled attempt at concealing the state's role as an agent of oppression.

C. Compromise Between the Two Approaches

The discussion of political science that does not take note of the state is by no means acceptable. The pure state-centric discussion does not describe the nature of the subject either. The state-centric outlook fails to take into account the innumerable other associations and organizations whose activities influence the political situation a great deal. Moreover, simply a discussion of the state divorced from the social and economic perspective cannot be successful and meaningful.

So, it can be said by way of definition that political science is that branch of the social sciences which through a scientific study unfolds the various subjects such as the theory of the state, its organization and governmental system, the international relations, the activities of different groups, political power, political ideals, influences, behaviour and participation.

1.3. Scope of Political Science

Aristotle once said that *Man is by nature a political animal*. Man does not and cannot live outside society and the state. It is not possible to think of a man who lives in complete isolation. If he lives outside the society and the state, he is *either above humanity or below it*, i.e., he is not a human being.

Aristotle pondered also over the question why man lives within society and state. In his opinion man cannot be happy in isolation ;

This living is not worth it in seclusion. Man wants to live as smooth, peaceful, happy life. In fact, man has many aims and needs and he tries, in association with other men in society, to fulfil those aims. As Aristotle said, *the purpose of a man is not only to live life but to live a good life*. For the fulfilment of this purpose man created the society and the state. The society teaches him interdependence and the state regulates his life with discipline and law abidingness. The life of an individual, then, is complete only within the society and the state.

It is not possible, therefore, for a man to be indifferent about the state, government and the laws. For, it is only as a political being that man can carve out a happy life for himself. The state, the government, the laws are all contents of politics and political science studies them. The principal aim of political science is to make for man's welfare, happiness and security. The state is an institution which safeguards people's rights and spells out their duties and responsibilities. The state, therefore, is the central theme of political science.

As Professor Garner has said, *Political science begins and ends with the state*. This implies that the state is the pivot round which all discussion of political science revolves. Political science, therefore, studies everything from the origin of the state as a political organization to its form, functions, evolution and all other relevant subjects. Political science aims at creating a scientific outlook with regard to these subjects. But this does not mean of course, that political science studies merely the nature and condition of the different states as they stand today. It studies what the aims, purposes and ideals of states should be.

Not this alone. The state started its journey in the remote past. Since then the state has been growing and evolving. And there have been innumerable events and subjects that have helped the state to fulfil its aims and purposes. Political science deals with such events and subjects also.

Gradually, the powers of the state have become a subject of political science. It is common knowledge that the state makes laws, executes them and punishes those who break them. Now, the basis of all this is the authority and power of the state. Political science discusses the basis of authority and power and the methods in which authority and power can be and should be exercised. In practice, this authority of the

state is wielded by the government. The composition of the government, its functions and its classifications and forms are now recognized as some of the important subjects that political science studies.

In the modern world, there have grown up a great number of states. Every state is finding itself in some way related to others. No state can grow well in isolation. No self-centred state can have an all-round development, because there is hardly any state in the modern world that can boast of complete self-sufficiency in all conceivable aspects. As a result, states are developing intimate relationships among themselves. Thus war, peace, international relations and international law have made their way into the discussion of political science.

The UNESCO conference of September 1948 discussed the problem regarding the scope of political science and clearly decided that the following four broad categories should be the contents of political science: (i) political theory and its evolution ; (ii) the study of political institutions, constitutions, national government, regional and local government, public administration, comparative government ; (iii) political parties, political associations, people's participation in government and public opinion ; and (iv) international relations, international organizations and politics.

Whether political science should study and analyse merely what is happening or it should also discuss the ideals to be achieved, is a hotly debated issue among political scientists. The Behaviouralists are of opinion that it is the purpose of political science to make a value-free and objective study of the different subjects within its purview. Political scientists, in their opinion, should not keep themselves busy with ideals and rights and wrongs. So, here too, we must only seek after knowledge for the sake of knowledge and must not try to evaluate or moralize. But it should be borne in mind that political science aims at human welfare. So this social science must seek to eliminate man's miseries, to find ways to develop the freedom and liberties of the individual. Political science, thus, must be a fruit-bearing discipline, and not merely a light-bearing one.

According to Greaves, political science will lose much of its utility and importance if no evaluation is made and if it cannot

present a detached examination of what is happening. On this point Professor Robson observes that political science, cannot restrict itself to the study of what happens. What should happen must also come within the purview of political science. This discipline cannot remain silent about, and indifferent to, the defects and merits of a particular constitution or a particular political doctrine. It is surely within its jurisdiction to study how the defects of a particular constitution or theory can be corrected. It must distinguish between the good and the bad use of power. In other words, Political Science cannot be a value-free discipline.

It should be emphasized by way of conclusion that at this moment it is not possible to set any rigid limits about the scope of political science. National and international political scenes are continually changing; events are taking new turns every now and then. This gives rise to newer problems and there have been corresponding changes in the scenes and ideas as well. If political science fails to make proper adjustments in its subject and approach in response to the changes in the world political situation, the discipline will surely be a dead one any day. So at this stage of its development it is unfair to specifically fix the scope and boundaries of Political Science.

1-4. Some Contemporary Theories Regarding Definition and Scope of Political Science

Until recently, the state-centric approach to political science held the sway. Of late some political scientists have started the study of political science from a completely different point of view. They have attempted to give a different explanation of the definition and scope of the subject. The names of Robert Dahl, Abraham Kaplan, Harold Lasswell, David Easton and J. D. B. Miller are worth mentioning. We shall now present the views of different schools about the definition and scope of political science.

A. *Politics is the Study of the State*

Political science or politics has for many years been limited to the study of the state only. In other words, political studies were based on the idea that all subjects pertaining to the state are political and where there is the state there is politics.

This notion about politics or political science has nowadays been discarded as too narrow. A majority of modern political

scientists think it inadvisable and artificial to thus restrict the scope of political science. According to them, Too narrow idea— politics or political science can exist only societies without states where there is a definite organization called the State. There are certain human groups whom we call nomads who do not have a definite territory and thus are not organized in a state. They have some sort of a government but we cannot call this nomadic society a state. Besides, there are in Africa and elsewhere certain aboriginal tribes who have no organized political life worth the name. They have not been organized in a state. Even these aboriginal tribal societies surely have their own disciplines and codes. In these societies there is no state and therefore politics has nothing to do with the state.

Another strong criticism against this outlook is that there are many subjects besides the organization and function of the state which are dealt with by politics or political science. The political behaviour of the individual or the group, and their activities in times of voting or in case of forming a political party, the study of international relations etc. do not come within the periphery of the state's work. Politics thus is not concerned merely with the State.

B. Politics is Concerned with Conflict and Disagreement

Some say that Politics consists in disagreement and conflict. Where there is no conflict of opinions and interests, there is no politics. If there is disagreement on a certain issue, a political situation is then created and in such a situation the need for making and executing laws arises. *Politics is a matter of the expression, advocacy, settlement and modifications of disagreements.* In the words of Professor Miller, *conflict lies at the heart of politics. In a world of universal agreement there would be no room for it.* Professor Alan Ball thinks that politics involves disagreements and reconciliation of those disagreements and therefore, can occur at any level. Robert Dahl says that *in every political system there is a perpetual and unceasing conflict.*

There is no doubt that this view is an over-simplification and is wrong. Consent is needed for the conflict. Men, failing to agree on a certain point, consent to oppose each other. So in conflict too consent is important. Not conflict alone —consent also plays a part In times of war, the combatants agree to exchange prisoners and to stop war on the Christmas Day. Secondly, it is true that there is conflict everywhere.

in society but all conflicts are not political. So, it is wrong to say that where there is conflict there is politics. Not all conflicts are political. There are conflicts of interests and opinions in dramatic societies, in football clubs. There may be conflicts as regards the principles and tactics of the directors of a company. There may be disagreements and conflicts in a thousand other spheres like these. But such conflicts are not political in nature and as such are not the subject of politics or political science. Political science is sometimes concerned with conflict, but conflict by no means is the only thing that it takes into account.

C. *Politics is the Study of Influence and Power*

The study of politics as the study of influence and power was not unknown in political science, and forerunners may be found in Machiavelli and Hobbes. Recently in search of a science of politics, political influence and power became the key concepts of political science. Two staunch supporters of this approach were Charles Merriam and Harold Lasswell.

Professor Lasswell in his book *Politics* opines that *the study of Politics is the study of influence and the influential*. He characterises political science as an empirical discipline. It is the study of the shaping and sharing of power and influence.

But what is influence? According to Robert Dahl influence is *a relation among actors in which one actor induces the other actors to act in some way they would not otherwise act*.¹

The word influences is so wide that it is not possible to determine which influence is political. There are many kinds of influence. We know of the influence of the father over his son, of the pleader over his client, and of the advertiser over the buyer. The influence of such men are not political and cannot surely be the subject of political science. Moreover, to say that politics is the study of influence and the influential is to confine it to the activities of a small section of the society. In a word, the concept of influence tends to establish the predominance of a small group.

In the opinion of some modern political scientists the subject-matter of political science is power. Frederick Watkins says that *the proper scope of political science is not the study of the state or of any other specific institutional complex but the investigation of all*

1. Robert Dahl : *Modern Political Analysis*, P. 50.

associations in so far as they can be shown to exemplify the problem of power.

In recent times some other scholars also have chosen to view political science as the study of power and the struggle for power. Lasswell describes political science as the study of shaping and sharing of power. W. A. Robson says that political science centres on the struggle to gain or retain power. Robert Dahl, too, has more or less the same thing to say. According to him, *political analysis deals with power, rule or authority.*

So far as power is concerned there is no unanimity among political scientists about what power means. All powers are not political. Sometimes it becomes extremely difficult to say which influence or power is political and which is not. Moreover, if we ask where power resides and how power is distributed or what influence is and who influences we will then find ourselves in a great difficulty as to how to define power and influence.

D. Politics is the Authoritative Allocation of Values

According to David Easton, *political science is the study of authoritative allocation of values as it is influenced by the distribution and use of power.* He thinks that the minimum condition for the stability of a society is the creation of a system through which it is possible to assess the authoritative allocation of material and spiritual things. Of course, Easton considers this the minimum condition for a society's stability and it should in no way be considered the only condition. At times there occur conflicts among different groups or individuals over the allocation of material things or values. And, often, such conflicts cannot be resolved by personal agreement or according to conventional practices. In such cases, some principles are evolved with the sanction of the social authority. The society regards this principle or settlement as authoritative. In David Easton's view, authoritative allocation is determined by the distribution and use of power. The social authority may, if necessary, apply its decision by force.

It can be said in criticism of Easton's views that the authoritative allocation and the principles and policies relating to that allocation are not the only subject with which political science deals. The authoritative allocation of material things or values can be one among the various other subjects of political science.

In the concept of the authoritative allocation, the word authoritative is of special significance. Although decisions on state policies are sometimes taken outside the governments, only such decisions are called authoritative as are taken by the governmental machinery. It is rather easy to locate authority in a monarchical or authoritarian form of government. But it is not possible to locate it for certain in other governmental systems.

For those reasons it is not possible for us to accept Easton's views. Easton in fact has sought to break the bounds of political science and to bring it within the wider arena of social activities.

E. Politics Consists of Certain Great Issues

For Professor Lipson political science means something else. According to him, the business of political science is to deal with some great issues. Every government faces these problems and tries to solve them. Politics is a means through which an organized group of men may try to take decisions regarding those great issues.

Now what are these big issues or problems which influence the course of politics? How many of these issues are there? In Lipson's view there are five such issues.

The first problem is about the members of the state. Every citizen of a state has certain rights and duties in relation to other citizens. Right and duty are relative. There are, in every state, two divisions, namely, the government and the governed. The society is divided into those who are privileged and those who are not. This problem of inequality and privileges tore many a society asunder in the past.

The second great problem concerns the boundary and limits of the state's activities.

The third great issue is the source of authority. It is obvious that in order that the state may serve the citizen well it must be equipped with adequate authority and power; and the state must also exercise that authority. In practice, only a handful of men form the government and wield the authority of the state. Naturally, the relation between the government and citizens often becomes a subject of debate.

The fourth problem is about the organization and distribution of authority. Authority may be centralized somewhere, or it may be decentralized, i.e., distributed in different hands.

The fifth great problem of politics is the size of a state and its external relation. What should be the size of a state? Must a state have its own territory? What should be the relation among states?

1-5. Nature of Political Science : Is it Science or Arts ?

There is difference of opinion about whether political science is a science. Aristotle considered political science a science of the highest degree. Following him Bodin, Hobbes, Sidgwick and others have regarded it as a science. On the other hand, scholars like Buckle, Burk and Maitland are not prepared to call it a science. Buckle thinks that in the present state of our knowledge, *Politics, so far from being a science, is one of the most backward of all arts.*

In recent times, the Behaviouralists have made an effort towards building a scheme of politics. They are trying painstakingly to divorce philosophy and values from political Behaviouralists views science and to explore the possibilities of developing the value-free discipline of political science.

They are having recourse to mathematical methods and expedients in order to understand and assess political events better. They are thus trying to employ some sort of a scientific method in the study of political science. And in their attempt at giving political science a scientific basis, the behaviouralists and the empiricists have been trying to formulate a general theory. It cannot be doubted that their employment of the mathematical and statistical methods has opened out newer horizons for the study of political science. Wasby, therefore, says that *political science is not a science in the same sense as physics, but politics can be studied systematically with the scientific method.*

Anyhow, to understand whether political science is a science or not, we shall here analyse the problem first historically and then use the analytical method. This will help us to understand the problem better.

Historical analysis

On an analysis, it will be evident that many political scientists including Aristotle employed the scientific method of observation in the study of political science. Aristotle's discussions of political science are based on his study of the government of 158 city-states.

Aristotle's scientific approach was later further improved by Machiavelli who first dealt with Politics and Ethics separately and divorced ethical questions from political science. He meant that what is and what is needed are the subject-matter of political science; what ought to be or ought not to be is beyond the scope of political science. Infact, Machiavelli has been sometimes called, for this outlook, the first modern political scientist. Later on, Hobbes, Bodin, Herbert Spencer and Montesquieu made important contributions in the application of scientific method in the study of political science. Montesquieu may properly be regarded as the first modern political scientist. In his book *The Spirit of the Laws* Montesquieu has employed a correct scientific method of inquiry into political analysis and has opened a new horizon before the discipline.

Analytical Method

We may now start on the discussion whether political science is, from the point of view of subject-matter, a science or not. We first enumerate the reasons for which political science is not usually regarded as a science:

1. Political science is not a science according to the definition of science.
2. Political science has no definite method of study because its subject-matter is quite complex.
3. No laboratory experiment and observation is possible about the changing society, state and government.
4. Political science has no continuity, for, its subject-matter is not fixed and unchangable.
5. Relation between cause and effect can hardly be established in political science.

These arguments are powerful no doubt, but before arriving at a conclusion on this point we should try to ascertain what the definition of science really is. Shall we call only the uniformity of reasoning a science? Or shall we call only subjects like physics and chemistry science because they are definite, experimented and objective? Or, again, should we regard as science any subject in which we have applied the scientific method of investigation and observation, and the study of which enriches our knowledge?

If we accept the last-named norm, we can regard political science as a science. Political scientists by means of their classification of the subject-matter of political science, its analysis and examination, seek to discover the laws and patterns of politics. Such patterns and laws may not always be infallible. For, the laboratory for investigating laws for politics is the world itself and its subject-matter is the whole range of human experience stored through the ages.

Political scientists have, since the days of Aristotle, observed the governments of innumerable countries and their structure and working; they have analysed the different classifications of governments and different administrative systems. On the basis of this investigation and analysis they have made the modern classification of governments; they have discussed the merits and defects of each and have told us whether the people are likely to be benefited or not by each of them. Aristotle made a survey of the constitutions and governments of 158 countries and his analysis of the causes of revolt and his prescription for their remedy are highly important even today. The study of the different democratic governments and constitutions, made by Bryce in his *Modern Democracies* is of great value and use due to the comparative analysis and the scientific method of inquiry he has employed. Political science has been advancing through investigation, experience and comparative analysis and so it can fittingly be called a science.

There is no denying that the prescriptions and conjectures made in political science do not always prove to be correct, that its data are not put under experiment in the laboratories as those of physics and chemistry. The subject of political science, we must not forget, is chiefly man and his political behaviour. There cannot be any law about man's society and politics that will always hold good irrespective of place and time. The same is true of economics too. For this reason Marshall, the famous economist, has compared the conclusions of economics to tide and ebb. We can similarly, following Bryce, compare Political Science to Meteorology. Just as the forecasts about rainfall, storm or thunder-storm are not always infallible, so also we cannot expect hundred per cent certainty about the prescriptions of political scientists.

We have said before that political analysis cannot be experimented in laboratories. So its laws are discovered and its principles enunciated on the basis of observation and comparison. That is why

political science is an observational science rather than an experimental science. If, for example, political scientists see that a particular type of governmental system gives rise to popular unrest wherever such a system has been adopted, they will not be able to make laboratory experiment of this type of government; but they can surely analyse this type of government closely and see whether it really bears elements of discontent and can conclude that such a system of government is not capable of doing any good to the people.

So, if we are prepared to regard as science any discipline which formulates its theories through observation, analysis on the basis of experience and comparative study, then political science can surely

Incomplete science be called a science. Only, we should remember that it is not a science in the sense in which physics and chemistry are sciences. It is, to borrow Bryce's words, an *inexact science* or an incomplete science or a *science in the making*. We can say, following Lipson, that the study of Politics can be considered *scientific* only to the extent that we seek to know the truth, to discover the facts with accuracy and to correlate causes with their consequences.

1.6. Relation with Other Disciplines : The Need for an Inter-Disciplinary Approach

The different branches of the social sciences are closely inter-related. Each depend for sources on the society and with changes in the social life there are corresponding changes in their character also. In fact, it is not possible for any social science to develop on its own in isolation. The social sciences develop and take on new character and method through and as a result of different stresses and strains.

Political science is a social science and the influence of other social sciences on political science is no new thing. In explaining the character of the state, Plato analysed the structure of family and education. And Aristotle discussed the allocation of social values and wealth in different types of government. In his discussion on political condition and its transformation, Karl Marx, the father of scientific socialism, laid stress on social class structures, the technological advance, etc.

Modern political scientists attach considerable importance to the inter-dependence of the social sciences. They think that if we rigidly

separate political science from the other social sciences, we will only succeed in preventing the healthy cooperation between political science and the other social sciences; and in the development of thought, the result of this insularity will be dangerous. In the opinion of David Easton, owing to the development of the Behaviouralist school of thought the demarcating line between political science and the other social sciences has vanished and the possibilities of an inter-disciplinary scientific approach have become brighter. He describes this inter-dependence as *cross fertilization*. Political science has borrowed the theoretical methods from other social sciences and this naturally has brought it closer to them. So, we can say that in order to understand the society better and in all respects, there should develop an inter-disciplinary scientific study. For, this study alone will enable us to know the society as a whole.

1.7. Political Science and History

Many political scientists believe that political science and history are two very closely related social sciences. Some say that history is the laboratory of political science. Some, again think that *history is past politics and politics is present history*. According to Lord Acton, *the science of politics is the one science that is deposited by the stream of history like the grains of gold in the sand of a river*. Burgess says, *Separate them.....and the one becomes a cripple, if not a corpse, the other will-of-the-wisp*. We may here recall John Seeley's famous observation: *History without Political Science has no fruit, Political Science without History has no root*. Seeley surely means that the study of political science becomes useless and its proper evaluation is not possible unless the historical perspective is taken into account. Aristotle said that history demonstrated man's speculations and organizations. For example, for the evaluation of the theories of Nationalism or Individualism or Socialism we must have an idea about their origin and development. In the words of Professor Willoughby, history provides the third dimension if political science.

As political science depends on history, so history also is indebted to political science; History is ineffectual if it takes no notice of political science. To understand the policies of Hitler and Mussolini, for example, we must have a complete understanding of German

Nazism and Italian Fascism. The assessment of these two dictators is possible only in the light of these two movements. To understand Gandhism, the best guide is Gandhi's life. History too depends on As Gandhi himself said, his life was his political science teaching. The Indian nationalism, the political thought of different personalities and principles of different political parties of India cannot really be separated from the political history of the country.

That these two disciplines are closely related is indisputable. But to know the nature of this relationship it is necessary to know what history is. History for a long time was regarded as just a conglomeration of unconnected events. Karl Marx has shown that in every age the oppressor class used the state as an agent of oppression. The society comprises on the one hand the people who control the means of production and who squeeze the fruits of the labour of the people without such control and on the other, these workers. Marx thinks that the history of all ages is the history of the struggle between these two antagonistic classes. To quote him, *The history of all hitherto existing society is the history of class struggle*. If we accept this interpretation of history we will see that there is no clearly marked dividing line between history and political science.

Criticism : Exaggerated Statement of their Relationship

There is difference between history and political science as regards purpose, outlook and methodology. So the views of Seeley, Burgess, Acton and others are only partially correct. Their observations suffer from overstatement. In fact, political science is not related to every branch of history. For example, the history of fine arts or that of coinage has no bearing on political science. Moreover, every aspect of political science is not dependent on history. Plato's ideal state and Bentham's utilitarianism have nothing to do with history. There are theories in political science that cannot be evaluated in the light of history. For example, the socialist governments are recent phenomena. We will seek in vain for such examples in the past. So the view of Burgess, Seeley and Freeman that history is past politics, politics is present history is untenable. Professor Sidgwick has given history but a secondary place in the study of political science. In his opinion, history does not idealize or moralize. History can at best bear the ideas of the past. It is not possible to get political ideals

from history. History has nothing to say about present day political organizations. The goal and means of political science are its own. Moreover, political science is a motivated discipline, but history is not.

Conclusion

So, according to some, it is quite possible to study political science without reference to history. As Barker says, *We must admit the possibility of a great and influential theory of Politics which has no definite basis in History.* This statement of Barker seeks to recognise history and political science as two independent disciplines, but disregards their inter-relationship. Political science and history are complementary. So, following Leacock, we should rather say that *some history is part of political science.*

1.8. Political Science and Economics

The idea that political science and economics are two distinct disciplines is of recent origin. Originally these two were parts of the same discipline. Ancient scholars called it *political economy*. All scholars from Plato and Aristotle to Adam Smith believed that politics was in some way connected with social production. So Aristotle while discussing political theory never lost sight of economics. In Kautilya's celebrated work *Arthashastra* we come across a discussion on the economic system of Mauryan India. The Physiocrats declared in the eighteenth century that economics was a branch of political science. On the other hand, there are some who do not think that the two disciplines are closely related. Political science is related to economics only in so far as the state is connected with the system of production and distribution.

Any way, it is Adam Smith who first expressly stated that political science and economics were closely related. According to him political economy proposes to enrich the people and the sovereign. He thinks that there is a *law of nature* which seeks to maintain the balance of ordinary life. Social wealth depends on the production which results from the division of labour. As a result of division of labour producers produce freely and consumers consume freely. The wealth produced and consumed without any constraint ensures the balance and welfare of the society. The state should not interfere with this law of nature and should not lay its hands on this natural process of production and distribution. Although Adam Smith does not

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imply that the state is directly dependent on economics, he, however, means that it is by maintaining this economic law that the state can grow and ensure the welfare of the society. It is on the foundation of this view of Adam Smith that the *laissez faire* theory has grown up. *Laissez faire* is basically an economic principle but the state is not uninfluenced by it.

The relation between political science and economics was more deeply studied in the nineteenth century by the great German thinker Karl Marx. Marx believes that the two disciplines are very closely related. He has shown that the state system arises because it is needed for the production of wealth and for earning profit. The state system is essential to perpetuate oppression. The state, acting as the mouthpiece of those who control the mode of production, subdues other people who are not owners of the means of production. This role of the state is evidenced in administration, in legislation and in the army. The state is in fact a weapon of oppression.

Marxism does not accept the artificial wall between economics and political science. In fact, the political system and the economic system cannot be easily separated. The economic system of a country is the reflection of the political ideals of its ruling class. Socialism, individualism, etc., are no mere political concepts; they must be understood with reference to their economic purpose. Thus in the present day world it is not possible for us to think of a political theory without reference to its economic background, just as it is not possible to think of economic system that has no political philosophy behind it.

Economics grew in prestige in the Western bourgeois social system after the industrial revolution. Gradually with the growing importance of trade and commerce, economics came to establish as an independent, prestigious discipline. The development of political science as a distinct discipline was not much affected by this. Thus eventually the need arose to study both the disciplines separately and independently. Thus we may say in conclusion that though the two disciplines are quite independent they are still very close indeed—*They co-operate, and yet maintain their autonomies.*

1.9. Political Science and Sociology

Political science is an important branch of sociology. Man is a social being. It is possible to study man's social evolution and social condition as a whole. It is also possible to study only a branch of it. Sociology is the basic social science. It studies the various aspects of

man's social existence. Sociology studies the human associations and the other associated processes. It studies and enunciates various general principles and theories of man's social life. It also studies the evolution of the society and analyses events and characters from the social point of view. Political science on the other hand, is concerned with man's political life only. Political science thus is both narrower and more modern than sociology. Political science begins much later with the life of man than sociology does. It is not possible to deny that there are many points where these two disciplines meet. Still, however, it is also to be borne in mind that the scope of one is far wider than that of the other. The one is embedded in the other.

Sociology is the general social science whereas political science is a specialized or differentiated social science. Secondly, in sociology the most fundamental and important factor is what the individual does as a social being. In political science the central subject is the state. It is not that sociology does not study the state. But it does so from the social standpoint and it conceives of the state as a social institution. In the third place, political science deals with one institution in the main, while sociology deals with many others. Fourthly, political science directs man's thoughts and activities towards the state, whereas sociology studies the inter-relationship among all associations and institutions. Finally, political science starts with the axiom that man is a political being, whereas sociology views man as a social being. Thus the context and perspective of the latter are wider.

It is worthwhile now to discuss how these two disciplines enrich and help each other. Paul Janet, the French philosopher says that political science is that part of social science which treats of the foundations of the state and the principles of government. The story of the transformation of the state from a social institution into a political phenomenon is a highly important subject for the political scientist. And here he must borrow from sociology. Sociologists like Morgan, Giddings and Jenks have studied this transformation. And political science has many things to take from these studies. Sociology in general furnishes political science with information about and insight into how the regulation and principles regarding political institutions, authority and social control grow. Different political parties stand for different ideas and interests. How through these parties the different social groups function and come to clash with one another

is taught by sociology. Sociology tells the political scientist how different small social groups are guided by psychological considerations, say, before and after the elections. Professor Giddings has, therefore, said that *to teach the theory of the state to men who have not learnt the first principles of sociology is like teaching astronomy or thermodynamics to men who have not learnt the Newtonian laws of motion.*

In the same manner, sociology also depends on political science on some counts. The state is the principal instrument of social control. Its laws and regulations have great influence on and significance for the individual and the society. Now these have become important subjects for the sociologist to study. And here they must depend on the information furnished by political science.

Sociology had for a long time been neglected as a social science. But in modern times it has developed a great deal so that its importance cannot be ignored. This increase in the prestige and horizon of sociology has enriched political science. Nowadays a new field of study has emerged under the name of political sociology. Political sociology is that branch of sociology which deals with political system and political method. As a link subject between sociology and political science the role of political sociology is quite important.

1.10. Political Science and Psychology

Psychology had long been a science of the individual's mind and its emotions and impulses. But nowadays its principles have been applied in the social organizations too. In fact, the source of both the individual and the society (or for that matter, the state) is the same, i.e., the individual's mind. So, the study of political science cannot be meaningful or effective without due consideration of the impulses, thoughts, attitudes of the individuals and the groups.

Comte, Spencer and others have attached considerable importance to psychology in their analysis of political science. Bagehot has tried to show that the British constitution is reflection of the psychology of the British nation. Barker believes that since the publication of Bagehot's book, political scientists have turned into psychologists. According to Bryce, political science has its roots in psychology.

Tarde, Le Bon, Graham Wallas and McDougall have carefully dragged psychology into any discussion about political science or

sociology. Tarde and Le Bon say that in any society a few superior and influential men initiate and the multitude follows. Thus politicians must know the collective mind or the group mind, for, most individuals behave according to the influence and pressure of the group. McDougall has tried to explain the social process with the help of the individual's propensities.

The individual influences politics in two ways. First, it is the individuals who direct the affairs of the state. And they form, according to Tarde, the norms and principles of politics. Secondly, in a society or a group the individual's non-rational emotional mind works. And it is this mind that is the source of all thoughts, reasons and activities. So Political science cannot help taking psychology into account.

In a general way it can be said that the natural instincts and propensities of the individual and the group, their mental make up etc. influence political science. For example, a nation's nationalism is the reflection of its psychological elements. And thus these elements give its nationalism its character. Again, no democratic government is possible by riding roughshod over the people's sentiments and emotions. Thus political science is considerably dependent on psychology.

1.11. Political Science and Ethics

Professor Gilchrist, while discussing the relation between political science and ethics has said that *political science, the science of political order is also connected with Ethics, the science of moral order*. He means that political science deals with everything political, while ethics deals with everything moral. Ethics is primarily concerned with man's mind. Ethics believes that it is possible to improve and develop the individual by improving morality.

The aim of the state is the establishment of peace, of law and order, the protection of the weak against the strong. The ethical principles and moral values are very important factors for the fulfilment of the state's purposes. Political science deals with political discipline among other things. But why should men be disciplined? Men must be disciplined because indiscipline and lawlessness would make life aimless and disrupt all human values. This would mean the disruption also of the society and the state.

And here ethics comes in. Ethical values and moral principles save the society from such a dismal possibility. Moral itches and pricks of conscience induce and inspire men to abide by social and political regulations, political rights and duties. For, men often feel that they are morally obliged to keep laws because, if they do not, then others would not keep them either. Political science does not develop or create moral values and principles but depends a great deal on them. The citizens of a state keep the laws not from fear of being whipped by state's knout, but because their conscience ordains them to do so. That is why Green has said that *Will, not force, is the basis of the state.*

For Plato and Aristotle politics was an extension of ethics. Some people say that men render obedience to the state either for fear or gain. Plato and Aristotle have opposed this and have brought forward the ethical and moral considerations. They say that men are guided by their own sense of good and evil, of what they should do and what they should not. Man wants to live a good life and it is in the hope of this good life that man created the society and the states. Over and above this, no state is a good and ideal state that has no moral scruples, that does not value ethical principles. Thus moral or ethical principles underlie political thinking.

In his famous book *The Prince* the Italian diplomat Machiavelli divorced ethics from political science. He has tried to show that politics has nothing to do with ethics. For, in politics such means are often taken to fulfil political aims as can never be sanctioned by ethics. Some modern political scientists, following Machiavelli, say that political science is a 'pure' science and has no connection whatsoever with ethics. Like Physics, Chemistry and other pure sciences political science, too, cannot indulge in judging values, they say.

But political science will lose much of its significance and utility, if it does not speculate on what is wrong in politics and how such wrongs can be corrected, on how the goal of human welfare can be attained. Politics, in other words, cannot remain satisfied with *what it is*. It must also suggest *what it ought to be*. Politics, it must be borne in mind, is not shrewd diplomacy alone, it is not given only to self-seeking. So nothing that harms the society, that goes against the interests of mankind, can have any place in political

science. Both political science and ethics aim at the development and well-being of the individual and the society. Now the question is how this aim is reached. If the state acts with a purpose, then it is no longer a science, for it then becomes a descriptive discipline and not a normative discipline. Thus in these two respects also—in aim and in method—political science is associated and related with ethics.

1.12. Political Science and Geography

That political science and geography are related disciplines was first declared by Aristotle. Modern French philosophers and scholars like Rousseau and Bodin believe it strongly. The influence of geography on man's character is considerable. Climate and geographical situation mould man's character a great deal. The influence of geographical situation, of soil, of rivers and mountains is great in moulding state-character also. Rousseau and Bodin think that climate has a great bearing on the character of a government. In their opinion, autocracy is likely in a hot weather country, barbarism in a cold country and good and healthy rule in a temperate climate. According to Montesquieu, man's nature is moulded by geographical conditions and it is this geographical condition that develops man's mental make up to guard and maintain independence or bear bondage. Buckle in his book *History of Civilization* has tried to show that social activities are not guided or directed by the free will of individuals—it is rather dependent principally on climate, food and soil. This is very clear when we remember that in the building up of nationality the role of geographical elements is really great.

In Bodin's view any considerate rule must before making laws take serious note of the characteristic of the citizens, of the forces that move them. Bodin has divided the world in three climatic regions of both sides of the equator. The influence of Venus and Saturn is great in the south of the equator; and so people there are more erotic and amorous and have a sharper intellect. People of regions on the equator are under the influence of Jupiter and Mercury and vitality of the activity are their chief traits. The people of the north of the equator are under the influence of Moon and Mars; they are very bold, powerful but are comparatively unintelligent. Men of the south are morose, those of the north are very flexible and those of the middle region are self-complacent in nature. Montesquieu too speaks of regional differences.

But this view of Bodin and Montesquieu is not acceptable. In

ancient times there were civilizations which did not correspond to this sharp division of climatic regions. The importance of this theory, however, cannot be overlooked, whatever its defects. That man's physical traits are dependent on natural conditions cannot be denied. It can hardly be denied that the government and politics of a particular region depend much on the character of the people which, in turn, is dependent on geography.

What is to be noted is that Bodin and Montesquieu unduly exaggerate the influence of geography on political science. Two people of the same geographical conditions may develop and advocate two completely different types of government. So there is relation between political science and geography, but this relation should not be stretched too far.

EXERCISE

1. Define Political Science. (1-3)
2. Discuss the nature and scope of Political Science. (1-3)
3. Do you agree with the view that political science is a science? Give your reasons (1-5) (Tripura Secondary Board (+2) '78; H.S.C. '79)
4. Discuss the need for Inter-disciplinary approach and show relation between History and Political Science. (1-6 and 1-7)
5. How do you distinguish Political Science from History? (1-7)
(H. S. C. '79)
6. Is Political Science a Science? (1-5)
(T. S. B. '78)
7. "History without Political Science has no fruit, Political Science without History has not root."—Discuss. (1-7)
8. What is the scope of Political Science? Discuss the relation of Political Science with Economics (1-3 and 1-8)
(H. S. C. '84)
9. Discuss the Scope of Political Science. Show the relationship that exists between Political Science and Economics. (1-3 and 1-8) (H.S.C. '78)
10. Define Political Science, What is its relation with Sociology? (1.2 and 1.9)
(H.S.C. 1980)
11. Discuss the relation of Political Science to Sociology. (1.9)
12. Discuss the nature of relationship between Political Science and Psychology. (1.10)
(H. S. C. '83)
13. Discuss the relation of Political Science to Ethics. (1.11)
14. Discuss the relation between Political Science and Geography. (1.12)

Objective type questions

1. Tick the correct answer in the brackets :
 (a) (Plato, Aristotle, Karl Marx) is called the father of Political Science,
 (b) Political Science is a branch of *SOCIAL*, physical, ethical science)
 [H. S. C. '78 '82]
 (c) Society has described history as the (flower, fruit, *ROOT* of political science,
 (d) Seeley has described political science as the (flower, *FRUIT*, root) of history.
2. Tick the disciplines that are related to Political science:
 Physics, History, Sociology, Economics, Botany, Psychology,
 Geography, Zoology.

The state is the product and manifestation of the irreconcilability of class antagonism. It is an organ of class rule, an organ for the oppression of one class by another.

V. I. Lenin.

CHAPTER TWO

The state : Definition and characteristics

2.1. What is State ?

The state is the biggest and the most important of all social institutions. It is the state round which the citizen's life revolves and it is through the state that citizenship has its fullest expression. That is why in the study and teaching of political science the state is the central point. The state may be regarded as a sub-system in the whole political system.

Although different political philosophers since Aristotle have defined the state from their own points of view, it was Machiavelli, the famous Italian diplomatist and author, who first used the term *State*. In ancient times the state was very small in size. Any city with about ten or twelve thousand citizens was called a state. Thus the famous ancient Greek city of Athens was an independent city-state. The ancient Greeks and Romans organized themselves into small, independent city-states. These were known as *Polis* or *Civitas*. In subsequent periods the size of states gradually became larger. In modern times, the Soviet Union and the United States of America are very large states judged by all standards.

Aristotle, the father of political science, defined the states as *A union of families and villages having for its end a perfect and self-sufficing life, by which we mean a happy and honourable life.*

According to Cicero, the state is a common society united by a common sense of right and a mutual participation in advantages. In recent times Burgess has defined the state as *a particular portion of mankind viewed as an organized unit.*

The state defined according to Bluntschli, *the state is a politically organized people of a definite territory.* Hall, the noted authority on international law says that *the marks of an independent state are that the community consisting it is permanently established for a political end, that it possesses a defined territory, and that it is independent of external control.* According to Wilson, *a state is a people organised for law within a definite territory.*

The idealist philosophers have tried to determine the definition and nature of the state on the basis of the relation between the individual and the state. In the opinion of Hegel the state is *God's march on earth.* So the directives of the state are infallible and

inviolable. The state should not, in his opinion, be regarded as a means to an end. For, the state is the climatic end of human civilization.

Hegel has described the state as the realization of liberty and has sacrificed individual liberty at the altar of the state. The British idealist philosophers like Green, Bradley and Bosanquet, too, tell us more or less the same thing. Bosanquet thinks that the state is *the sole organizer of rights the guardian of moral values.*

The Marxists have seen the state from the materialist and scientific point of view. Karl Marx and his friend and collaborator Frederick Engels have analysed the social process and social system

and have shown that in a class ridden society, the owners of the means of production oppress the poor and thus increase their profit. Some

sort of an agent is needed to keep up this profit-making. And the state is the agent of oppression through which the extraction of surplus continues. That is why the Marxists say that *the state is an organization of one class dominating over the other classes.* Lenin says that *the state is the product and manifestation of the irreconcilability of class antagonism. It is an organ of class rule, an organ for the oppression of one class by another.* Marx has said that *the state will wither away* when there will be no classes in the society.

The Marxian theory of *Base and Superstructure* explains how in the final analysis the economic structure (mode of production) State is a determines all aspects of 'social life. The superstructure economic structure constitutes the *Base* on which there arise many ideas and institutions. These ideas and institutions constitutes superstructure of society. So the state is a *superstructure*.

We will now discuss the definition of the state given by Garner. In Garner's definition the essential elements of the state are beautifully expressed and so this definition has been accepted by political scientists by and large. Garner says that *the state, as a concept of political science and public law, is a community of persons more or less numerous, permanently occupying a definite portion of a territory, independent, or nearly so, of external control and possessing an organized government to which the great body of inhabitants render habitual obedience.*

2.2. Elements of the State

If we analyse Garner's definition of the state we will see that there are four elements of the state, namely, Population, Territory, Government and Sovereignty. These are the four essential elements of the state. An institution or association that lacks one of these elements cannot be called a state.

A. Population

There can be no state without a population. We cannot call a solitary desert or an ocean a state. There must be a group of people because if there is no human society there is hardly any need of forming a state. The population of a state can be divided into citizens, aliens, etc.

There is no definite rule regarding the size of a state. In ancient Greece and Rome the population of states was small as compared with the population of most of the modern states. Plato, Aristotle and other ancient scholars advocated a small size of population. In their opinion, an unduly big population would jeopardize the administrative efficiency and an unduly small size would prevent a state from becoming selfsufficient. In the modern age, there are states with a small population and states with a large one. The population of Panama in South America is hardly more than five lakhs. India's population by now is well over sixty six crores, and that of the People's Republic of China is over seventy crores. Political scientists like MacIver and Laski have laid greater stress on the social organization

and composition of the state than on population. In this connection a very important point to remember is the unity and integrity among the citizens of a state. The principal question that comes up is : must the entire population of a state be homogeneous ? Homogeneity is found when the people speak only one language, follow one religion and are part of the same culture. On the other hand, there are states where the diversity of language, religion, etc., have not stood in the way of national development and integrity. When we speak of a national state, we have in mind this homogeneity of population. For good and efficient government, and for the fulfilment of a state's aims homogeneous population is a necessary condition.

B. Territory

Those who will organize themselves in a state must permanently occupy a portion of territory and live there. If a people move about from one place to another like nomads they can then have no states of their own. A state is formed within a geographical area. As Bluntschli has said, the physical basis is the population, its geographical basis is the territory. Gettel says that *territorial sovereignty* is the most important element of a state. Now the question is : What is really meant by territory ?

In political science the term *territory* has an especial significance. It means the specific geographical limits of a state. It does not merely mean the surface of the land, but also means the rivers, mountains and the territorial waters within a state's jurisdiction. The territory of a state also includes atmosphere above the land surface. The natural resources, climate and geographical position of a state play an important part in the development of a state.

There is no specific rule regarding the size of the territory. The size of the territory may be small or large. There are large states like China or India. There may be states with a very small territory like Luxembourg or Monaco. Aristotle said that there should be a limit to the size of a state. A state would lose its character if its size exceeds or falls short of that size. In ancient times it was believed that democracy was possible only in very small states. Rousseau says that a smaller state is stronger than a large one. Montesquieu and Tocqueville say that democracy can exist in small states only. Trietschke, on the other hand, has declared that the smallness of size is a curse for a state. However, about size there are no hard and fast rules. Of course, the importance, power and prestige of a state depend a great deal on its size.

Hall, the famous authority on international law does not regard territory as an essential element of the state. Duguit, too, says that *territory is not an indispensable element in the formation of a state*. This view is not tenable. The observation of Engels seems quite correct. He says that *the primary distinguishing feature of the state is the division of the subjects of the state according to territory*.

In fact, territory is essential for a state and it is over the length and breadth of this territory that a state's sovereignty is exercised. Of course there are three limitations to a state's sovereignty over its own territory. In the first place, when there is dispute between two or more states over a particular territory, those states exercise authority over it simultaneously. In Sudan there was the joint authority of Egypt and Britain. This is known as condominium. Secondly, the foreign embassies are not within the territorial jurisdiction of the state in which they are situated. Thirdly, an exile government may be recognized by the sheltering country as the lawful government, though the exiled government's own land is in that case not ruled by it.

C. Administrative Machinery or Government

A people merely living permanently in a territory cannot form a state. There must be some kind of a machinery to organize the people with the help of laws and regulations. As Garner says, *Government is the agency or machinery through which the common policies are determined and by which common affairs are regulated and common interests promoted*. The majority of the population will pay habitual obedience to this machinery. It is through this agency that the state makes law and maintains law and order. To make a railway carriage go, a guard and a driver are needed. In a similar way, to make the state work smoothly and efficiently, a government is needed. Government has three organs—executive, legislature and judiciary.

D. Sovereignty

Sovereignty is the most important element of a state. It is the supreme attribute of the state. Sovereignty is like the nerve centre of the state, it is the soul of the state. A man's body, if devoid of life, is nothing other than a lump of flesh and bones. So, any social institution or organization, if it has no sovereign power, is just an institution, but is not a state. Thus, it is sovereignty which distin-

guishes a state from other associations. The state has unrestrained authority over any person and any institution within it. The administration and laws of the government are acquiesced in by the majority of the people. There can be within a state no power

Sovereignty : the
principal element
of state

that can disobey the authority of the state. Over and above this, no external power will have any control or authority over the state. The state will announce terms of peace by itself, it

will proclaim treaties in its own name. If another state dominates and rules over us, then we do not have a state. Thus the states (provinces) of Assam and West Bengal are parts of the State of India, but are not free sovereign states themselves. Assam and West Bengal have territory, government and population—but have no sovereignty.

Sovereignty can be external and internal. The state claims complete allegiance from anything and anybody within the state ; it can

Sovereignty : internal
and external

claim complete freedom from any external control. Some scholars, of course, say that this sovereignty, both internal and external, is

limited and not absolute—*The state is limited within, it is limited without.* For, internally, the state sometimes has to accept the popular will and externally, other states sometimes exert great influence over a state which the latter cannot always overcome or avoid.

Examination of a Few Associations

We will now examine some associations and institutions in the light of the above elements and see if they can be called states.

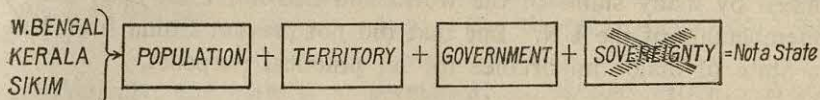
If an institution has population, territory, government and sovereignty, we do not hesitate to call it a state. But the absence of one or more of these elements makes the formation of a state impossible. We will now see if certain institutions and associations are states or not.

India has a territory of its own, a population, a government and sovereign power. So India is a state.

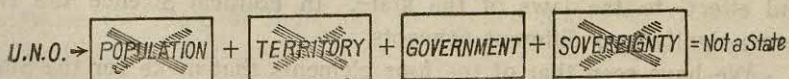
$$\text{INDIA} \rightarrow \boxed{\text{POPULATION}} + \boxed{\text{TERRITORY}} + \boxed{\text{GOVERNMENT}} + \boxed{\text{SOVEREIGNTY}} = \text{State}$$

Usually, the term state is used for West Bengal, Assam, Kerala, Tamil Nadu etc. We say, for example, the state of West Bengal

or the state of Kerala. The term state is here taken to mean province or federated state. These provinces have territory, population and even government. But they lack sovereignty. So they are not states.



The United Nations is an organization of a number of sovereign states. This organization has some similarity with a state and this has prompted some scholars to call it a state. Now the question is : does the United Nations possess all the essential elements of a state? The United Nations has no population and territory of its own. And though it has a government machinery, its power of enforcing its rules is in reality very limited. Finally, the member of the United States do not renounce their sovereign power and the UN has no sovereign power to bring it to bear upon the other states. And there are instances of disregarding United Nations' measures. The effectiveness of the United Nations depends greatly on the willingness of the member-states to oblige. So the United Nations is not a state.



Elements of State that are not Essential

There are certain elements of state other than population, territory government and sovereignty. One such element is *permanence*. Some say that while government is temporary and changeable, the state itself is permanent and unchangeable. As Hugo Grotius says, *States are immortal*. Now, what really do we mean by permanence? Does it mean the permanence of the territory? In recent past a part of Pakistani territory, namely, East Pakistan, declared independence and is now a separate state called Bangladesh. Thus the territory of Pakistan has undergone a change. Shall we, then, mean by permanence the permanence of a state's name? Formosa is now known as Taiwan, Gold Coast is Ghana of today. Some, again, say that by permanence is meant the unbroken record of a state's existence. But losses during war, new territorial settlements after the liquidation of colonies and revolution often lead to drastic changes in a state's territory. Thus a state may for a time lose its existence. So, 'permanence' cannot be considered as an essential element of a state.

International recognition, i.e., recognition by other states is regarded by many as an important element of a state. This, too, is not tenable. Until recently, People's Republic of China was not recognized by many states of the world and had not even been allowed membership of the UN. But that did not prevent China from being a state of major importance for all practical purposes.

2.3. State and Government

Some philosophers like Hobbes do not make any difference between the state and the government. Since the will of the state is expressed through the government, it is not impossible to make the one synonymous with the other. The French emperor Louis XIV said, *I am the state*. Professor Laski says that *the State is, for the purposes of practical administration, the Government*. Professor G.D.H. Cole says likewise that *a state is nothing more or less than the political machinery of Government in a community*. Some political scientists, of course, do not accept this view. From the theoretical point of view a difference between the two should better be made. The state is just an abstract idea; the government in practice gives 'substance and effect' to the laws of the state. In Political Science the two terms signify two different concepts.

We have seen that of the four elements that make for the State 'Government' is one. Government is an instrument, a machinery through which the will of the state is expressed, the activities of the state are performed. Government is the *machinery through which its purposes are formulated and executed*. So Government is the machinery of the state it is wrong to take the government for the state.

An engine drives and drags the train along with it. But it would obviously be a mistake to confuse the engine with the train. Similarly, the government runs the state but is not itself the state. Professor Garner has aptly remarked that the states is a joint-stock company as it were and the government is like its board of directors. The directors guide the activities of the company. Similarly, the government guides those of the state.

In the second place, the state comprises all the people who live within it. In India there are over fifty crores of men. Of them a few thousand only take part in the government. We, all of us, are Indians and are members of the state called *The Republic of India*. But are all of us members of the government?

Thirdly, when we speak of the state the idea of a territory is immediately conjured up. When we speak of Sri Lanka, we immediately think of an egg-shaped island. But the government does not have any connection with territory.

Government has nothing to do with territory

Fourthly, the state is a 'permanent and stable entity'. When a state is formed, it continues to exist for a long time. But government is not so stable or permanent, governments may fall or tumble as a result of elections or owing to other reasons. In India the Janata party was the ruling party at the Centre few years back. Now this government had gone and made room for the Congress (I) party to rule at the Centre. But this has not brought any change to the State of India.

Government temporary, state permanent

Fifthly, all states are of the same character. All have the four essential elements—territory, population, government and sovereignty. There may be large or small states; there may be unilingual, bilingual or multilingual states. But on essential points there is no difference between the State of India and the United States of America. The government of different states, on the other hand, may be of different characters and forms. In India there is now a 'cabinet form of government' and a 'Presidential form of government' holds the reins of the United States of America.

Nature of government differs

Sixthly, the people can demand freedom from the rule of a particular government, but nobody can claim or demand rights against his state. In fact, individuals have rights because the state recognises those rights. The state is the source of all rights and liberties. We cannot have any right to disobey the state, though under certain circumstances we can have the right to challenge a government.

Rights against govt., but not against state

Seventhly, as we have said above, the state is an abstract idea or concept and the government is a concrete thing. There is a very common analogy—a pet one with the political scientists; The state is the soul and the government is the body. This analogy, like many others, is a bad analogy. Yet the point that it seeks to make is clear.

State abstract, government concrete

Finally, it is sovereignty which is the most distinguishing element of a state. The state possesses sovereign power, but the government does not.

Sovereignty

2.4. State and other Associations

There may be various kinds of associations in a society. Man fulfils his social purpose through these associations. There are men with different tendencies and passions. Some wish to make the grade in games and sports, some find greater pleasure in literature, some have an aptitude for painting, some again, may have proven abilities in organising trade union movements. Not merely this. There may be lurking in the mind of the same person a complex of passions. There may be in the mind of a person, 'a bundle of interests', as Professor Laski puts it. To satisfy these passions and desires, to give expression to the emotions of men, certain associations are formed. An association is *a group organised for the pursuit of an interest or a group of interests in common*. The state too is a social association. It satisfies the political purpose of maintaining and safeguarding the peace and unity of the society. For the pursuit of this aim men form and become members of a state.

Some scholars, therefore, find no difference between the state and other associations. Nowadays a theory called Pluralism has become preponderant. The pluralists believe that the state is not the only institution which possesses sovereign power. Pluralist view The sports association, the labourers' association, and the writers' association are different kinds of associations just as the state is a kind of political association. The other associations are organized for the pursuit of a definite social purpose and are no less important than the state. Each of these associations is important for the individual. The pluralists claim that the power enjoyed by these associations are equal to those of the state. The state cannot claim greater power than these associations possess, nor is it advisable to allow it to the state. The pluralists thus lose sight of difference between the state and other associations. But the state really differs from other associations.

Difference between State and Associations

In the first place, a state's activities are limited within a particular territory, while there are many associations whose activities are not necessarily bound by geographical limits. The Red Cross Society and the Boy Scout Society are two very important examples. Both these are social associations. Their activities are not confined to any particular state. They operate throughout the world.

Secondly, every social association is organized for the pursuit of a definite aim. Some associations have religious missions, some others are organized for service to the poor and destitute, some others still are sports associations. The Baptist Mission is an example of the first kind of association, the Bharat Sevashram Sangha is an example of the second type and the Indian Football Association of the third. But the state has no definite aims. It is organized for the all round development and well-being of the society.

In the third place, the state is a permanent and stable organization, but the other associations are not necessarily permanent. Many associations break down owing to the disputes among members and other internal conflicts. But the state never actually breaks up, though it is often rocked by governmental changes and political upheavals.

Fourthly, a man can become a member of more than one association at the same time. A man can be a member of a debating society, of a football club and of the Ramkrishna Mission simultaneously. But it is not possible and it is not allowable for one person to become member of two states at the same time.

Fifthly, an individual must be the member of a state. He cannot escape from being a citizen of this state or that. But he may not like to be the member of an association and membership of an association is not compulsory. Moreover, an individual who is a member of an association can at any time renounce his membership if he so desires. But one cannot renounce membership of the state at will.

In the sixth place, the greatest difference between the state and other association lies in the fact that the state has sovereignty, while associations cannot have it. Associations can warn its members or even punish them with expulsion, but the state can order death sentence even. So, for the individual, the place of the state is different from that of the other associations. It must, again, be remembered that other associations exist so long as the state thinks it proper to allow them to exist; an association may be banned any time by the state if the former acts illegally or against human welfare. But the state's existence is not dependent on the wish of any association.

The independence and sphere of activity of these social associations are somewhat limited. No democratic state wishes to restrain this limited independence. The state rather with a view to bringing consistency to their business and organization tries to maintain the balance among different social associations. In doing so the state sometimes interferes with their work. In Professor Barker's words,

The state, as a general and embracing scheme of life, must necessarily adjust the relations of associations to itself, to other associations and to their own members. But in this the purpose of the state is to enable these associations to work more efficiently, not to wipe them off.

Questions

1. Define State (2.1) [H.S.C '79]
2. What are the essential elements or Characteristics of a State? (2.2)
[H.S.C. '78, '80]
3. Is the State of West Bengal a State proper? Is Sikkim a State? Is Kerala a State? Is United Nations a State? (2.2) [H.S.C. '79]
4. Distinguish between the State and Government (2.3)
5. What is a State? How do you distinguish a State from other kinds of Associations? (2.1 and 2.4)
[H.S.C. '79, 81 and Tripura Secondary Board '79]
6. Define a State. What are characteristics of a State? Are the following States? 1. Agartala, 2. United States, 3. London (2.2)
[Tripura Secondary Board '79]
7. Discuss the meaning and significance of the term Territory as an element of the State. (2.2)
8. Define a State. Discuss the importance of Sovereignty as an element of the State. (2.2)
9. Define the term State. Analyse the essential characteristics of the State. (2.1 and 2.2) [H.S.C. '83]
10. Analyse the difference between the State and other Associations. (2.1 and 2.4) [H.S.C. '84]

Objective-type Questions

1. Choose the correct answer from those given in the brackets and tick it :
 - (a) The State is an organ of oppression. This was said by (Aristotle, Rousseau, Karl Marx)
 - (b) The term State was first used by (Hegel, Machiavelli, Hobbes).
 - (c) The State is an organ of class rule—This was said by (Aristotle, Rousseau, Marx, Green) a [H.S.C. '79, '83]
 - (d) In the opinion of Gernel there are (3, 4, 5) essential elements by a State.
 - (e) An individual can be a member of more than one (State, Association) [H.S.C. '80]
 - (f) Membership of an State is (voluntary, obligatory)
 - (g) West Bengal is a (State, a component unit of a State).
 - (h) (Hobbes, Marx, Garner) says that Political Science begins and ends with the State).
 - (i) (West Bengal, Bangladesh) is a State. [H.S.C. '82]
 - (j) A person can simultaneously be a member of more than one (State, Association).
2. Which of the following are States? Tick them.
 1. The Red Cross Society, 2. U.S.A., 3. West Bengal, 4. Agartala, 5. West Bengal Higher Secondary Council, 6. Nepal, 7. New Delhi, Bangladesh, Tripura.

The state is neither the handiwork of God, nor the result of superior physical force, nor the creation of resolution or convention, nor a mere expansion of the family.

—Garner

CHAPTER THREE

Origin of the State

3.1. Origin of the State : Different Theories

It is still not known for certain when and exactly due to what causes and factors the state originated. What we can say confidently is that the state is a political institution of the society and that it emerged from within the society. At some stage of history, for some internal social reasons, as a result of the interaction of some forces, the state originated. Societies were not formed in all countries at the same time and states likewise were not formed in all societies at the same time. In different societies and in different countries states emerged at different times and at particular levels of civilization. Scholars are not unanimous on when and how the state originated. In the words of Burke, there was a veil on the primordial picture of the government and that veil has not yet been removed. As there is no direct and unassailable proof, there have grown up a number of theories mostly based on imagination. There are three theories of the origin of the state which are based on surmise and

imagination. These theories are :

A. *The Theory of Divine Origin*

B. *The theory of Force*

C. *The Social Contract Theory*

Besides these three, there are two theories which are based on sociology and history. These two are :

D. *The Patriarchal and Matriarchal Theory*

E. *The Historical or Evolutionary Theory*

We will now discuss these theories first and will then say which is acceptable and why.

3.2. The Theory of Divine Origin

Of the theories of the origin of the states the theory of Divine Origin has been considered the oldest. This theory offers a theocratic explanation of the origin of the state. According to this theory, the state was created by God and it is run by His wishes. God inspired men to organize themselves. The king, as this theory states, is merely the representative of God on earth. It is through the king that God's will is expressed. So obeying the king's orders is obeying God himself. Disloyalty to the king is as sinful as disloyalty to God. God is not answerable to any person whom he has created. Similarly, the king is not answerable to his subjects for any of his work. The king is above all laws ; no law can bind him. He is answerable to God only. There are many instances in the ancient Hindu kingdoms of India of regarding the king as a representative of God. Ramchandra of Ayodhya was regarded as an incarnation of God Vishnu. Some royal families claimed their descent from the Sun God and others from Moon. In ancient Egypt, China, Japan and other countries also this was noticeable. This theory not only declares that God created the State, but even states that king is the incarnation of god an earth. So, as Dr. Figgis says, *under any circumstances resistances to a king is asin, and ensures damnation.*

Dr. Figgis has shown that this theory rests on four propositions :
first, the state is created by God and the king is his representative ;
secondly, it is a Divine Right of Kings to rule hereditarily ; *thirdly*, the King is accountable to God only and not to anybody else, and
fourthly, it is the holy duty of the subjects to obey the King and it is sinful to disobey him.

Such a theory has very frequently been invoked whenever there was dispute over the king's authority and upheaval against him. This

theory was invoked when in the mediaeval ages there was a conflict between the King and the Pope. The first Stuart king of England, James I, unambiguous in the announcement of the King's Divine Right : *I am the Husband, and all the whole Isle is my lawful wife, I am the Head, and it is my Body ; I am the shepherd and it is my flock.* In essence the kings considered themselves breathing images of God upon earth. On the other hand, the Popes, too, claimed to be God's representatives on earth. There have been writers who through their literary works campaigned for the same ideas, Robert Filmer's name comes up immediately.

Criticism

The Theocratic explanation of the origin of the State suffers from many shortcomings. *First*, this theory ignores that the state is a man-made institution. It was formed because it was a social need to form it. *Secondly*, the theory supports monarchy only and it was created to strengthen monarchy. The modern age is an age of democracy. But this theory has nothing to say about democracy and socialism. That is why the theory of Divine Origin lost its weight and support after the seventeenth century. *Thirdly*, this theory unduly allowed unlimited powers to the King and made autocracy more strongly entrenched than before. Moreover, this theory implied that the people had no right of appeal against the king. This is a dangerous theory from this point of view. That the king can do no wrong or even if he does, the people cannot resist him, is neither allowable nor justified. *Fourthly*, this theory has clouded the political institution called the State by a religious smoke screen. But a State is by and large a secular organization. Christ clearly pointed to this distinction when he said—*Render unto Caesar the things that are Caesar's and render unto God the things that are God's.*

Importance

The theory of Divine Origin of the State is not only defective but misleading as well. Yet its historical value should not be denied. This theory made the king the representative of God and enabled the former to force the semi-civilized tribes and others into submission. It enabled the king to bind men by the bonds of discipline and laws in the name of God. Gettell has remarked that this theory helped the evolution of the state by training man to pay obedience to the state at a time when men were not fit enough for self rule. And in the

early stages of the evolution of the state, this theory placed monarchy on solid foundations.

3.2. The Theory of Force

Political scientists like Leacock, Hume, Jenks and Oppenheimer are some of the very famous protagonists of this theory. This theory not only tells us in its own way how the State came into being but also speaks something about its nature. According to them the state came into existence when some strong men or clans dominated over weaker men or clans by using sheer force or the show of it. The will to rule by force of power is ever latent in man's mind. So even when living the organized social life some men were always there who wished and had the ability to enslave, or rule over others by force. The state's origin, according to some political scientists, may be traced to this. In the primitive age, one clan defeated another and swallowed it. This led to the expansion of clans and they became transformed into tribes. In this way a considerable large area came to be marked as the sway of the leader of tribe. He introduced some kind of a government there. This was the primitive form out of which the state emerged and grew. There is a common saying—the powerful rules or, might is right. So the state came into existence on the basis of force and it endures by virtue of force. Dr. S. Leacock explains this theory thus: *The beginnings of the state are to be sought in the capture and enslavement of man by man, in the conquest and subjugation of the feebler tribes, and generally speaking, in the self-seeking domination acquired by superior physical force.* Similarly, Coker says that it is a creed of dominance by intimidation—militancy in international relations and forcible suppression of political dissent in domestic government.

What the theory seeks to state

In Hobbes' opinions strife and feuds were very common among men before the state came into being. Every man was self centred and thought of his own good only and cared little for others. In such a society discipline and security were an anathema. Such selfish men could be chastened only by the more powerful and dominant men. Individual men renounced their power to the superior might of the king. And that *might* has been holding the state to this day. Covenants without the sword are but words and have no

Views of different philosophers

strength to secure a man at all. The German scholar Trietschke in glorifying state power and favouring war, has in a round about way supported the Theory of Force.

Marxs and his followers also admit that force plays an important role in the affairs of the state. According to them, in the primitive age there was no family, and no private property. Men lived in a sort of primitive communism. But as men learnt agriculture individual private labour came into existence and this gave rise to private property. Gradually, in order to maintain private property, and to secure its inheritance, the family came into existence. And also came into existence the classes—propertyed classes and propertyless, weak classes. The propertyed classes sought to dominate over the producing but weak classes. This class struggle threatened to disrupt the society. So a coercive power emerged from within the society to prevent this. This power was the state. As F. Engels says, *In order that these antagonisms, classes with conflicting economic interests might not consume themselves and society in sterile struggle, a power apparently standing above society became necessary for the purpose of moderating the conflict.*

Criticism

The theory of Force has been used by interested parties for different purposes. In the middle ages it was often said that the state was based in force, while the Church was based on morality. This was said in order to prove the superiority of Church. Coker has shown that the advocates of fascism were inspired by the theory of force. According to Bluntschli the theory of force has made it clear that force is the most important element of the state.

But the Theory of Force gives undue stress on the use of force in the formation of the state. It ignores other possible factors like popular will and moral principles. Rousseau says that the right which is based solely on force or might cannot endure long. The end of force will bring about the end of that right also. It is quite possible that in the organization and maintenance of the state some force is needed and is inevitable. But it is surely not the only factor. The theory of force sanctions war and strife and is opposed to peace and integration.

Even if it is granted that force was needed in forming the state, the question has often been asked—was force the only basis of the

state? Were not popular will and sanction of great importance?

Green's statement
discussed

Green says : *Will, not force, is the basis of the state.* Thus Green means that the state came into existence because the people wanted it.

So Green makes will and popular sanction, and not force, the basis of the state. MacIver also says that *force always disrupts unless it is made subservient to common will.* According to these scholars popular will has greater weight and power than force. An example of this is the great revolution in Russia which made even the mighty Tsar bow out. The French Revolution also points to the same truth.

It should, however, be remembered that Green's view has some cogency but is not completely flawless. In this context we may say with Lindsay that force is as much needed in forming the state as is popular will and sanction. In fact, it is popular consent and sanction that gave the state its legal character. Men obey the state power and its laws owing to various reasons such as fear, ignorance, habit, necessity and laziness.

So neither the Theory of Force nor Green's view is absolutely correct. Green is correct in thinking that man's will and consent took a formidable part in organizing the state. Thus neither will only nor force only created the state. Lindsay's comment is very

Conclusion

apt and justified: *Most laws . . . will work and can be enforced because most people want*

usually to keep them . . . there must be force because there are rules which have little value unless every one keeps them and force is needed to fill up the gap between most people usually and all people always obeying.

3.4. The Social Contract Theory

Of all the theories of the origin of the state the Social Contract Theory was the most popular at one time in Europe. The state was not created by God, nor did it originate naturally and by itself. The state was the result of a contract among men. Such a view is not new. Such an idea was cherished by the *Sophists* of ancient Greece. Aristotle and Plato referred to this idea and criticized it. In the *Mahabharata*, Kautilya's *Arthashastra*, in the Roman law also we hear of a contract between the king and the people. In the *Old Testament* we hear of a covenant between David, the king of the Jews and his subjects. In the sixteenth century, such a view found expression in the works of Richard Hooker. Thus the Social Contract Theory has a

History of the theory

long history. But this theory has been given its modern foundation and shape by the great trio—Thomas Hobbes (1588—1679) and John Locke (1632—1704) of England, and Jean Jackques Rousseau (1712—1778) of France.

The Social Contract Theory explains not merely the origin of the state. It deals with the relation between the king and the people, with the problem of liberty, with the limits of the king's power and various other ideas. The condition that prevailed in the society of the primitive man before the rise of the state has been described by these three philosophers as the *State of Nature*. As there was no state, no man-made laws and disciplines were there, primitive man was guided by the *natural law* and enjoyed *natural rights*. Men were not happy in this state of nature. Their life became absolutely intolerable. So they wanted to put an end to this unhappy state of nature. They became eager to create a new society with the help of rules and codes made by themselves. Men accordingly made a contract which was voluntary in nature because they made this contract of their own and it was not imposed on them from above. This was the beginning of the state.

But Hobbes, Locke and Rousseau are not of one opinion about what exactly was the nature of the *state of nature*, why men came out of the state of nature, among whom the contract was made and what the contract was like. So we will do well to discuss the views of the contractualists—Hobbes, Locke and Rousseau separately.

Thomas Hobbes

Thomas Hobbes' views on the social contract was published in the book *Leviathan* in 1651. Hobbes was a supporter of monarchy. In Hobbes' time, England was going through a political turmoil. Kingship was having a very bad time. Cromwell's constitutional experiments were already under way. It has been said that Hobbes came forward with his Social Contract Theory in order to save absolute monarchy and strengthen it with a theoretical basis.

According to Hobbes men in the state of nature were selfish, greedy, querulous. There was no discipline and the only general code was that might was the only right. As a result each individual man was overtaken by deep grief and felt lonely. There was no security of man's person and wealth. Strife, conflict and fighting

His idea of the state
of nature

were a constant and regular feature in the state of nature. In Hobbe's words, *Conditions in the state of nature made man's life solitary, poor, brutish and short.*

Naturally, this could not be endured long enough. Men, therefore, saw the necessity of coming out of this life and of making some sort of a contract among themselves. According to Hobbes men contracted among themselves to surrender power to a person or a group of persons. As if men said—*We will no longer live according to our own wishes. I propose to surrender any right to this person whom we have chosen. You should also surrender your rights to him in the like manner.* Thus through this contract a sovereign ruler was raised. *He that carrieth the person is called Sovereign and hath several powers; and everyone besides his subjects.* This was the origin of the king and the State. The king, in Hobbes' words, was the Leviathan, the mortal God who under the patronage of the immortal God, would look after the happiness and welfare of mankind. Hobbes, of course, does not make the king a party to the contract. So, by implication, the king was not accountable to the people for his actions. He would rule as he pleased. And the people would accept his rule meekly. The command of the king was law. In this way Hobbes favoured through his Social Contract Theory the absolutism of kings.

John Locke

John Locke took a different position. If Hobbes was out to support absolute monarchy. Locke's effort was to place individual liberty on a firm foundation. Locke in his *Two Treatises of Civil Government* sought to support the revolution of 1688. And in his 'Civil Government' he presented his Theory of the Social Contract.

In Locke's view men were free in the state of nature and were governed by the laws of nature. The State of Nature has a law of nature to govern it. Men enjoyed certain rights too. Men were not selfish, self-centred or unsocial. Men lived in peace in the state of nature; they lived a regulated life. Why then did men come out of the state of nature? Locke thinks there were three reasons for it. In the first place, there was no broad-based law which was recognized by everybody. Secondly, there was no known and impartial arbiter. Thirdly,

there was no authority to see that whatever law was there was executed properly. Some bad men took advantage of this situation. Life in the state of nature at one time lost its order, peace and regularity. So to make life peaceful and regular, to bring order permanently to the society, men formed the state.

But how? Locke here speaks of two contracts and not one. By the first contract men decided to surrender their rights to the society and not to any individual. This was a social contract. By the first contract every individual decided to renounce and surrender a part of their rights to the new society. This new society now become a powerful entity. The state was thus born. Now a government must be established. So by the second contract the rights of individuals were surrendered to a king who, it was contracted, would look after the people's life and security.

King a party to the contract
Locke is not clear and specific in speaking about the second contract. But the feature that stands out is that according to Locke, the king is a party to the contract and not above it; his only duty is to ensure the people's security and prosperity. By the contract the king's power was limited. Locke put greater emphasis on the liberty of the people.

J. J. Rousseau

The great French philosopher Rousseau wrote his celebrated book *Social Contract* in 1762. This book contained his Social Contract theory regarding the origin of the state. If Hobbes through his *Social Contract* vindicated absolute monarchy, and Locke spoke for a limited monarchy, Rousseau denounced monarchy altogether and indicated direct democracy and popular rule. Rousseau was a harbinger of the French revolution.

In Rousseau's view, the state of nature was completely peaceful and happy. Men enjoyed freedom like birds in the sky. There was friendship and fraternity among men. But owing to growth of population and other economic causes certain problems cropped up. Simplicity and equality departed from man's life. Private property came into existence and over it quarrels and feuds occurred.

So men soon realized the need of forming some sort of an organization by contract. A contract was made to the effect that the people would not henceforth exert their individual power but would be guided by the *General Will*. In Rousseau's own words—

"There is often a great deal of difference between the will of all and the General will, the latter takes into account only of the common interest while the former takes private interest into account and is no more than a sum of particular wills." Actually

The General Will the people by common consent made their rights over to a collective body. And this collective body was only the representative of the General Will. This was according to Rousseau, the beginning of the state. Rousseau says that by surrendering individual rights to the General Will nobody actually lost his freedom. No ruler had the absolute power because he would have to rule in accordance with the General Will. This General Will was the sovereign power. Thus Rousseau made the people sovereign. Notably, there is no room for any king in Rousseau's contract.

Criticism of Social Contract Theory

Initially the Social Contract Theory raised great interest among political scientists but soon it became the subject of criticism. It is open to charge on several counts, as shown by political scientists and philosophers like Hume, Bentham, Burke and Austin.

In the first place, this social contract is unhistorical. We never find its corroboration in history.

Secondly, sociological studies reveal that the trend of the development of the society is from group towards the individual. But the three contractualists think that men contracted not as a group but in individual capacities. This can happen only after considerable progress of civilization has been made.

Thirdly, this theory is not based on reason. Nobody could form a state unless political sense had dawned. And when this sense dawned, the state came into existence without waiting for any contract. So the state came before the contract, not after it. Moreover, a contract which had no law to safeguard it was hardly of any value and weight. This theory tells us about natural rights. But no rights can be enjoyed if there is no law.

Finally, this theory, particularly as stated by Locke and Rousseau, puts undue emphasis on popular will. This was dangerous especially in initial stage. The people's opinion may be wrong; it may be guided by momentary impulses. So this is undesirable. As Burke says, the state is not a partnership business company.

Thus, the Social Contract Theory has failed to offer a correct

explanation of the origin of the state. For this reason this theory is not acceptable to us. We reject the theory as unreasonable, un-historical, imaginary and impossible.

In spite of these defects this theory is, however, not devoid of importance. By stating that the state rests in the will and cooperation of the people, this theory has paved the way for democracy. The cardinal principles of *Liberty, Equality, Fraternity* and *Justice* have sprung from this theory. The theory divorced religion from politics by stating that the states is creation of man, not of god. The Theory developed the idea of popular sovereignty.

3.5 General Will

Rousseau's theory of General Will has been criticized and defended at the same time. The theory of General Will is, in fact, Rousseau's most important contribution to political thinking. In the opinion of Rousseau, men submit their rights to the *General Will* and this General Will equally applies to all, This Will is general not because it is the will of all, but because it is to the benefit of all. As Rousseau himself says, *there is often a great deal of difference between the will of all and the General Will; the latter takes account only of the common interest, while the former takes private interests into account and is no more than a sum of particular wills.*

Since all men submit their rights to this General Will, none has, Rousseau says, any supreme power in the state. Rousseau's General Will is all embracing, all pervading, highest and aims at doing good to all. Thus Rousseau makes the people the sovereign. Since the General Will develops and expresses itself through the participation of all the people, the application of General Will or its responsibility can be entrusted only to the people. So the question of kingship or indirect democracy has been ruled out by Rousseau. For, it is through the participation of the people in law making that the General will emerges and moral liberty is realized. So, Rousseau believes that direct democracy is the only real form of the state. He says that law is the concrete form of the General Will. It has no conflict with liberty. Rousseau thus solved the old conflict of liberty and authority. He announced : *Man is born free and everywhere he is in chains.* Rousseau's writings in defence of direct democracy, liberty and rights became the firebrand in the last quarter of the eighteenth century and touched off the French Revolution, so to say.

In a word, therefore, Rousseau means that direct democracy is the state's evident form, law is the expression of the General Will, the realization of liberty takes place through law-making and finally, there is no conflict between liberty and authority.

But it should be said by way of criticism that Rousseau's theory of General Will is not quite clear. He has tried to analyse its nature but what he says about its location is hazy and ambiguous. Rousseau has sought to resolve the conflict between authority and liberty but in his attempt at making sovereignty of the people unlimited, supreme and absolute, he has made opposition to law impossible and even unethical. That is why Bertrand Russell says that *Rousseau's doctrine though it pays lip-service to democracy tends to be the justification of the totalitarian state.*

3.6 Points of Agreement and Difference among Hobbes, Locke and Rousseau

Hobbes, Locke and Rousseau discussed the origin of the state from their own individual points of view. Each of them was mainly influenced by contemporary political situation and courses. Each reacted to in their own ways. That is why in spite of some similarities, there are many points of difference among them. Some of these differences are fundamental in nature.

About the state of nature Hobbes and Locke spoke very differently. Rousseau struck a balance between the two. There is great divergence of opinion among Hobbes, Locke and Rousseau on the state of nature, natural law and the natural rights. Hobbes thought that the life of man in the state of nature was nasty, brutish and short. Men lived a very rugged, selfish and heinous life. Locke thought that peace and order reigned in the state of nature. Locke did not think that men in the state of nature were self-centred and unsocial. Men were rather free, happy and lived in peace. For Rousseau the state of nature was a condition of heavenly peace and tranquillity. In his view, primitive men enjoyed equality, liberty and fraternity.

Hobbes tells us of one contract. By this contract men surrendered all their rights unconditionally to the king who was not a party to the contract. Locke speaks of two contracts and not one. The first contract was social in nature and the second political. By the social contract the state was created and by the political contract the government. According

The contract

to Locke, the king was a party to the contract. Rousseau, however, thought of one contract like Hobbes. But he says that the people made over their power and rights not to any ruler but to a collective body representing the General Will. This contract was a social contract. No king came in here.

About sovereign power Hobbes says that it was unrestrained, unlimited and indisputable. And the king alone was capable of wielding this power. The will of the king, that is, the sovereign, was law.

In Locke's view, sovereignty was indivisible.

Although the government used this power, yet it was by and large limited by people's rights. Rousseau, on the other hand, believed in popular sovereignty. No king or ruler had this sovereignty. In his view, law was the expression of the common will..

Hobbes was an advocate of absolute monarchy. It must be remembered that he supported the Stuarts against the Parliament. Locke was in favour of limited monarchy. Through his Social Contract

Theory he sought to uphold the Glorious Revolution of England. Rousseau, however, supported direct democracy and tried to wipe monarchy off the state. Through this Social Contract Theory he tried to inspire the people to rise against the tyrannical French monarchy.

Hobbes makes man's rights very limited indeed. The people had no right on earth to dispute the king's authority and resist against him. They had no other right than the right to self-defence. Locke, however, thinks that men had the right to resist a ruler who

did not keep his pledge to rule for their welfare. Men, after the contract, still had right to life, right to property, right to liberty and right to rebellion. In Rousseau's view, liberty and equality were man's birth rights. The General Will had the right and power to change government. So by the social contract, men did not lose their natural rights.

On the whole Hobbes made no difference between the state and government. But Locke and Rousseau kept the two separate. About the relation between the ruler and the ruled each of the three protagonists of social contract made analysis in their own way.

3.7 Rousseau combines Hobbes and Locke

There are some scholars who have, after analysing Rousseau's theory of social contract, come to the conclusion that Rousseau has

combined the theories of Hobbes and Locke. Some scholars, again, make a more specific statement. They say that *Rousseau combines the premises of Hobbes with the conclusions of Locke*. If we analyse the theories of Hobbes, Locke and Rousseau, we cannot fail to observe quite some difference between Hobbes and Locke. In fact, in many respects they contradict each other.

Rousseau's theory on the other hand, has something in common with both Hobbes and Locke. And, yet, the view that Rousseau has combined Hobbes and Locke may appear untenable. For, although a common thread may be discerned in the arguments of Locke and Rousseau, it is indeed difficult to find any similarity between Rousseau, a champion of direct democracy and liberty and Hobbes, a champion of absolute monarchy. We should bear in mind that those who speak of this similarity do not mean merely the similarity in respect of social contract or the state of nature. The similarity in question is much deeper than that.

Before going into this theoretical affinity it may be well to show how Rousseau really combined Hobbes and Locke in respect of the state of nature and the social contract. In the first place, Hobbes characterized the state of nature as nasty, brutish and short, while Locke said it was peaceful. Rousseau supported Locke but admitted all the same that owing to the rise of private property and the growth of population the state of nature ceased to be peaceful.

Secondly, in his analysis of the nature of the contract, Rousseau supported Hobbes' idea of formation of the state as a result of a single contract. On the other hand, Rousseau explained Locke's second contract (by which the people created the government) not as a contract proper, but as the making of laws.

Thirdly, Hobbes believed that the people should enjoy as much liberty as the sovereign may allow through the laws. Locke says this is not enough. Rousseau is not in favour of limited liberty and yet he believes that realization of liberty should be sought through the laws. In a word, there is in Rousseau's opinion no fundamental conflict between authority and liberty. It is thus that Rousseau combines the arguments of Hobbes and Locke.

But a more important point is that Rousseau took from Hobbes his concept of sovereignty. In Hobbes's view, there is one to chal-

lenge this sovereignty. Everybody must pay unhesitating allegiance to the sovereign. The sovereign power is above all contracts and all rights. Rousseau appears to have taken the concept of sovereignty from Hobbes. Like Hobbes, Rousseau too believes that sovereignty is indivisible, infallible, omnipotent and supreme.

But all these similarities notwithstanding, there is a fundamental difference among these three contractualists. Hobbes finds that sovereignty rests on a single person or a body of persons, and Rousseau on the other hand, locates it in the General Will of all citizens. And at this point Rousseau rejects Hobbes and accepts Locke.

Rousseau evolves theory of popular sovereignty
 Locke believes that the people have the right to dislodge the ruling power that breaches the contract. Thus Rousseau, by combining the arguments of Hobbes and Locke, has enunciated his theory of the sovereignty of the people. This popular sovereignty takes the form of the General Will. Rousseau takes from Hobbes the concept of absolute sovereignty and from Locke the concept of political sovereignty and evolves the Theory of Popular Sovereignty.

Thus, there are certain apparent differences among Hobbes, Locke and Rousseau, and yet in Rousseau's theory we find some of Hobbes' premises and some conclusions of Locke.

3.8 Social Contract Theory as the Chief Antidote to the Divine Origin Theory

The contractualists regard the state as a man-made institution. They believe that the state had its origin in the contract among primitive men. Man created the state for their own needs. The role of supernatural powers in the creation of the state is not recognized. This explanation of the protagonists of social contract has liberated political science from the maze of theocracy.

In trying to explain the origin of the state the Divine Right Theory says that state is created by God and is run according to His wishes. This theory declares the King to be God's representative on earth. God's will is expressed through the King's activities. Everybody must submit to the King, for, to disobey the King is in fact to disobey God. This theory thus created a fog of superstition and fancy which is totally divorced from rationalism and logic. As a reaction against this appeared the Social Contract Theory. The

protagonists of the social contract theory have carefully removed the theoretical basis of the Divine origin theory and have firmly declared that the state is not the creation of God ; it is rather a man-made institution and a result of human effort.

It is thus seen that the Social Contract Theory has successfully dispelled the religious bias of political science. God cannot claim to have created the state ; not can the king claim to be the representative of God on earth. Locke and Rousseau have stretched their arguments further and have said that the people can revolt against a King who misuses this power and can drag him down from the pulpit of power. In fact, they have said that a King's power is limited. The king is answerable not to God, but to the people.

The Social Contract Theory has dealt a very powerful blow to the Divine Origin Theory. The King's oppression and autocracy which went on unabated for centuries were now seriously questioned. The Social Contract theory encouraged popular revolt against autocracy. Rebellious outbreaks for rights, equality and liberty began to spread. Thus the Divine Origin Theory began to fizzle out in the face of the tide brought about by the Social Contract Theory.

Hobbes was an advocate of absolute monarchy. Moreover, he has not altogether ruled out God's role in the creation of the state. But even Hobbes indirectly impaired monarchy when he declared that the state originated when the people needed it and that the contract was made because the security of the people demanded it. Locke and Rousseau extended the argument further to demolish the Divine Origin Theory altogether. Thus the Social Contract Theory has considerable contributions towards proving the baselessness and absurdity of the Divine Origin Theory. MacIver's statement that the Social Contract has done much to change man's ideas about Divine Right and the inheritance of unlimited and absolute power is therefore very apt indeed.

3.9 Permanent Values of the Social Contract Theory

Although the Social Contract Theory failed to explain the origin and the nature of the state, its historical value should not be denied. On a serious and close analysis of the Social Contract Theory as stated by Hobbes, Locke and Rousseau, certain ideas, principles and ideal have emerged. And these ideas and principles have made their way permanently into the discussions of political science and have been regarded by scholars as profoundly valuable. Undoubtedly,

political science is the more equipped and richer for these ideas and theories.

1. *Origin of the idea of popular sovereignty*

In the first place, the Social Contract Theory developed the concept of popular sovereignty in political science. Hobbes for the first time established through his Social Contract Theory the principle of legal Sovereignty. Locke raised the question of Political Sovereignty, and Rousseau of Popular Sovereignty. The development of the idea of popular Sovereignty is of immense importance in the developments of political ideas.

2. *Divorced religion from politics*

Secondly, a very important contribution of this theory is that it freed political science from the cobweb of theocracy and divorced religion from the affairs of state. This theory crippled and punctured the Divine Right Theory of the state. As this theory was a chief antidote against the Divine Right Theory, it was henceforth possible to lay the foundation of a state free from superstitions and based on scientific outlook.

3. *Emphasis on popular will and right*

Thirdly, the Social Contract Theory shook the very foundations of absolute monarchy and proclaimed the virtues of democracy. Locke directly and unequivocally opposed absolute monarchy and Rousseau was against any kind of monarchy whatsoever. They laid the principle of the people's rights against an oppressive or unsuccessful ruler. Though Hobbes was pro-monarchy in attitude, he recognized the principle that the will of the people created the state. In fact, the Social Contract Theory for the first time emphasized the role of popular sanction in the foundation of the state. Thus ideas about popular will and human rights came to be strongly advocated through this theory.

4. *Distinction between state and govt.*

Fourthly, this theory made and recognized a difference between the State and the Government and this is very important a contribution indeed for political science.

5. *Democracy*

Fifthly, this theory has a good role and contribution in the establishment of democracy and democratic ideas. The Social Contract

Theory as stated by Locke and Rousseau prepared the path for democracy by emphasizing that the state was founded on popular will and sanction. It limited the power of the ruler and gave enormous importance to the people. As Garner has said, *The Contract Theory, however, ...served a useful purpose in its day providing a weapon for combating irresponsible rules and justification for resistance to tyranny.*

6. Liberty and Justice

Sixthly, through the Social Contract Theory the ideas of liberty and justice or equity were proclaimed. In the words of Barker, *It was a way of expressing two fundamental ideas or values to which human mind will always cling—the value of liberty and the value of justice.* In fact, it was from these ideas that the celebrated maxims of Liberty, Equality, Fraternity and Human Rights sprouted. These ideas furnished the theoretical base of the Glorious Revolution of 1688 and the French Revolution of 1789.

It is seen easily, therefore, that though the Social Contract Theory could not offer a satisfactory explanation of the origin of the state its far-reaching contribution in the development of political and constitutional ideas and ideals cannot be gainsaid.

3.10 The Historical or Evolutionary Theory

We have noted that none of the aforementioned theories satisfactorily explains the origin of the state. As Garner says, *The state is neither the handiwork of God, nor the result of superior physical force, nor the creation of resolution or convention, nor a mere expansion of the family.* The long study of political science has made it amply clear that there is no simple formula of the origin of the state. Human society has grown for many centuries and many composite factors helped the process. The state has evolved through many stages. Burges has remarked well : *The state is a continuous development of human society out of a grossly imperfect beginning through crude but improving forms of manifestation towards a perfect and universal organization of mankind.* That the state has grown to its present form as a result of an evolutionary process has been accepted by political scientists by and large as a scientific and highly reliable explanation. This theory has been called the Historical or Evolutionary Theory of the origin of the state.

We have said above that the interaction of various simple and

composite factors and forces gave rise to the state and also gave it maturity. This, of course, does not mean that men consciously or knowingly worked for this end. Actually certain transformations took place in the society—transformations that only responded to man's social needs. And it may well be that men were more often than not unaware of these changes. According to the Historical or Evolutionary Theory certain factors played a highly important role in this evolution. We may analyse them here.

A. Kinship

Men are social beings and it is in man's nature to live in a society that the seeds of the state lay. This theory also believes that as a social being the most powerful bond was kinship. Men beget children owing to natural and biological instincts. But the children must be brought up and reared. This responsibility rested chiefly on the woman. But merely taking this responsibility was not enough. Through the rearing of children a sense of kinship grew and the idea that all young members of a family sprang out of the same male member consolidated this kinship. As the family extended the clan and the tribe gradually took their rise and out of these tribes the nation emerged, though some sort of distant blood relation still continued among its members. Thus, *Kinship*, as MacIver says, *creates society and society at length creates the State*.

B. Religion

In the evolution of the state the religious bond also played a significant role. As Wilson says, *Religion was the seal and sign of common blood, the expression of oneness, its sanctity, its obligations*. Religion by rousing fear and reverence in man's mind taught him to pay obedience to the superiors of the society and to the state. In primitive days, storm, thunder, earthquake and other natural calamities were regarded with great consternation. A class of men known as the magicians claimed to control them by superior power. Primitive men believed them and obeyed them meekly. In primitive days religion was nothing other than superstition. Early religion thus bound men by the common bond of allegiance to the magicians. These magicians even controlled the State power in some places. Thus religion united the people of the same faith and became a factor in the evolution of the state. Gettell

How it helped the growth of the state

Its importance in the origin and growth of the state

has correctly said that in the earliest and most difficult periods of political development religion alone could subordinate barbaric anarchy and teach reverence and obedience.

C. *Economic need*

It is man's nature to fight all the odds that stand in his way and thus try to live decently and comfortably. But to live he must collect food and other necessities of life. And many necessities are such as cannot be obtained by individual effort. So there was the need of a collective effort under the leadership of some men or group of men. This gave rise to a simple economic system and this economic system grew with time to help the transformation into the state. Gradually more complex economic phenomena like the exchange of commodities, maintenance of the ownership of private property and inequality of wealth developed. And a very broad based organization was necessary to tackle these problems. Thus the importance of the economic factor in the evolution of the state is quite considerable.

D. *Force*

From the very beginning of the social evolution men felt the need of organizing force and of using it for self-defence. Force was used in hunting, in defending against invasion of any kind and in giving effect to the orders of the group or tribe leader. Force thus used often strengthened the hands of the leaders and extended their hold over their followers. The popular saying *war begot the king* may be recalled in this context. Force thus was an important factor in the evolution of the state.

E. *Political consciousness*

By political consciousness is meant men's political awareness of building a political organization in order to safeguard their interests. This awareness was not there at the initial stages of the pre-social age. This consciousness dawned as there developed the complexities of life and the problems regarding ownership of private property. The state is the result of this consciousness.

Conclusion

The Evolutionary or Historical Theory, as we have said above, offers the only correct explanation of the origin of the state. This

theory is not founded on wishful imagination or prompted by personal motives of the protagonists as some other theories definitely are. This is the only theory where a scientific way of thinking is employed. None of the other theories has taken into consideration all aspects and all factors. The Divine Origin Theory puts all the emphasis on the religious factors; the Theory of Force takes force alone into account; the Patriarchal and Matriarchal Theories emphasize blood relationship or kinship only, and the Social Contract Theory counts only political consciousness to form a state. In fact, the Evolutionary Theory is the only theory that takes into account all the factors that took part in the origin and growth of the state. This theory alone recognizes that the state grew from birth to maturity by a process of evolution. In the light of research in Sociology, Anthropology, History and Archaeology the sociologists have accepted this theory as the scientific explanation of the origin of the state.

3.11 The Patriarchal and Matriarchal Theories*

These two theories also try to explain the origin of the state in their own ways. The Patriarchal Theory states that the family extended itself and developed into the state. Some families formed a clan and a few clans formed a tribe. Some tribes made a nation and this nation in due time developed into a state. According to Sir Henry Maine, primitive family was patriarchal in nature. The eldest male member was the leader of the family. He had unrestrained power over other members of the family. It was he who guided and directed the family. When this family expanded into a clan, this eldest male member became its Patriarch or the clan leader. A few clans united themselves and formed the state and then also the most aged male and the most respected person was made its head. According to Sir Henry Maine, the patriarch's wide powers simply anticipated the king's powers. Aristotle, too, says in his *Politics* that the family was the basis for the state in primitive societies. Nowadays this theory is completely out of vogue. For one thing, the patriarchal families were not found everywhere in the ancient world. Secondly, this theory fails to explain the origin of the state.

* The Patriarchal and Matriarchal theories are not in the syllabus. But we have discussed them briefly here so that the students can have an idea of all the theories about the state's origin.

We do not think that the evolution of the family and the origin of the state were such simple matters as Henry Maine believes.

The Matriarchal Theory likewise seeks to trace the origin of the state to the family, but it thinks that the eldest female member was the head of the primitive family and not the eldest male member. According to Morgan and Jenks, the two famous advocates of this theory, the original social group was the family in which the eldest woman was the pivot of the family system and descent and inheritance were traced through her and relationship was determined by her. She was the guardian of the young in the family. Evidences furnished by the study of the aboriginal tribes of Australia, America, Greece and Germany have been taken to strengthen this theory. Like the Patriarchal Theory, this theory also fails to explain the origin of the state. Matriarchal families were not universal. This theory, moreover, reckons with one simple factor only in the process of the evolution of the state, namely, the family. The insufficiency of these theories has been summed up well by Willoughby when he says that these two theories are but two 'social rather than political hypotheses.'

Questions

1. Discuss briefly the more important theories regarding the Origin of the State. (3.1 to 3.4 and 3.10)
2. Critically discuss the theory of Divine Origin of the State. (3.2)
3. Discuss the Theory of Force as an explanation of the origin of the State. (3.3) [H. S. C. '80, '82 and '84]
4. "The State is the result of brute force".—Discuss the validity of this theory of the State. (3.4)
5. "Will, not force, is the basis of the State."—Discuss (3.4)
6. Discuss the Social Contract Theory of the Origin of the State. (3.5) [H. S. C. '78]
7. Point out the limitations of the Social Contract theory. (3.5) [H.S.C. '81]
8. Discuss the points of agreement and difference between Hobbes, Locke and Rousseau. (3.7)
9. How does Rousseau combine the theory of Hobbes and Locke ? (3.8)
10. Discuss the permanent values in the Social Contract Theory. (3.10)
11. Write a note on "General Will". (3.6)
12. Write a note on "State of Nature". (3.5) [T. S. B. '79]
13. Social Contract Theory is the chief antidote to the Divine origin theory.—Discuss. (3.9)
14. Discuss the State of Nature as advocated by Hobbes. (3.5)

15. Discuss the Historical or Evolutionary Theory of the Origin of the State. Do you accept this Theory ? (3.11)
[H. S. C. '79, '81, T. S. B. '79]
16. "The accepted theory of the origin of the State is Historical or Evolutionary Theory."—Discuss. (3.11)
17. Explain the Evolutionary Theory of the Origin of the State. Do you find any element of value in it ? Justify your answer. (3.11) [H.S.C.'83]
18. Discuss the Evolutionary Theory about the origin of the state and make an evaluation of the theory (3.11) [H.S.C.'85]
19. State the reasons for which the Social Contract Theory regarding the origin of the state has been criticised. (3.5) [H.S.C.'85]
20. Discuss the limitations of the Social Contract Theory. (3.5) [H.S.C.'83]
21. How far do you agree with the view that 'the State is the creation of God ?' (3.2)
[H. S. C. '84]

Objective-type Questions

1. Choose the correct answer from those given in the brackets and tick it :
 - (a) The most important point that differentiates the State from all other Associations is (population, territory, *sovereignty*, government).
 - (b) Membership of a state is (*compulsory*, voluntary) for its people.
 - (c) The (theory of Force, *theory of Divine Origin*, Theory of Social Contract) believes that the state was created by God.
 - (d) The (Theory of force, Evolutionary Theory, *Social Contract Theory*) believes that the State is the creation of man.
 - (e) According to Locke there was/were (one, *two*, three) contract/contracts.
 - (f) A state has (only internal, only external, *both internal and external*) sovereignty.
[H. S. C. '79]
2. (a) "Will, not force, is the basis of state". Who said this ?
(b) Name one exponent of the social contract theory.
Or, Name a contractualist philosopher.
(c) Name the books of Hobbes, Locke and Rousseau which contain their views regarding social contract.
(d) Who is the exponent of the theory of "General Will ?"
(e) Which of the theories of the origin of the state has helped the growth of democracy ?
(f) Who is the author of 'Leviathan' ?
(g) Who is the author of 'Two Treaties of civil Government' ?
(h) Who is the author of 'Social Contract' ?
(i) Name two exponents of the pluralist view of sovereignty.
(j) Who is the exponent of popular sovereignty ?
(k) Who is the exponent of the Monistic theory of sovereignty.
[H. S. C. '79]
3. Choose the correct answer and rewrite the whole sentence with the correct answer in each case :
 - (i) "Will, not force, is the basis of the State"—said (Rousseau, Hegel, *Green*).
 - (ii) (*Hobbes, Locke, Rousseau, Marx*) is a contractualist political philosopher.

- (iii) Rousseau is the author of (Politics, *Leviathan*, *Social Contract*).
[H. S. C. '80]
- (iv) Hobbes is the author of (Republic, *Leviathan*, *Social Contract*).
- (v) (*Hobbes*, Locke, Rousseau) is the author of *Leviathan*.
[H. S. C. '79]
- (vi) (Hobbes, Locke, Rousseau) is the author of Two treaties of civil Government.
[T. S. B. '79]
- (vii) (Hobbes, Rousseau, Green) advocates the theory of General Will.
- (viii) (Divine origin, *Social Contract*, Evolutionary theory) has helped the growth of Democracy.
- (ix) The Divine origin theory is (Scientific, *unscientific*) theory of the origin of the State.
[H. S. C. '81]
- '(x) (*The Evolutionary theory*, the *Social Contract theory*) is a scientific theory of the origin of the State.
- (xi) A State is the result of (*Social Contract*, *Evolution*).
- (xii) Rousseau is an advocate of (Monarchy, *Democracy*).
- (xiii) Hobbes advocated (*Absolute Monarchy*, Limited Monarchy).
- (xiv) Hobbes thinks that number of Contract for the formation of State is (1, 2, 3).
- (xv) (Locke, Rousseau, Marx) is the advocate of the theory of Popular Sovereignty.
- (xvi) (Hegel, Rousseau, *Hobbes*) is the author of the *Social Contract*.
[H. S. C. '84]

Sovereignty is the original, absolute and unlimited power over the individual subjects and over all associations of subjects.

—Burgess

CHAPTER FOUR

Sovereignty

4.1 Sovereignty: Nature and Definition

Before we begin any discussion on sovereignty we must know what sovereignty really means. We know by now that every modern state is a sovereign state and that sovereignty is an indispensable element of the state. A state cannot be a state if it lacks sovereignty. We are not bound to obey the orders of an individual, we are not obliged to pay money in the form of a tax if that is imposed by an individual. But when the state issues orders or directives they are binding on us. We abide by the state's orders, willingly or grudgingly. For, we are aware that the state has a supreme authority by virtue of which it can enforce its orders and can punish those who do not comply with those orders. We abide by the state's laws because of this supreme power or authority. This supreme power or authority of the state is known as sovereignty.

The concept of sovereignty is the basis of modern political science. We have already known that this sovereignty is the most important element of the state. Now what does this sovereignty mean? The word *sovereign* is derived from the Latin word *superanus* which means 'supreme'. So etymologically sovereignty means a supreme power, unlimited, indisputable, absolute and final authority. And this same meaning is taken in political science also.

The state has unlimited, unrestrained and supreme power over all persons and institutions within the state. Only the state can frame laws which all within the state are bound to abide by. Other social institutions and associations may have their own choice and will, but the will of the state is definitive and final. If there is any clash between individual or associations and the state, the former must bow out, for, they have to acquiesce in what the state wishes and does. The state directs all people and all institutions with its geographical limits but does not look for directions from anybody.

This sovereignty of the state holds good both in internal and external affairs. Moreover, though people belonging to a state always accept this sovereignty, this acceptance is not forced. As Strong has said, the people voluntarily accept it, for, they find it lawful and justified.

In every state there are certain individuals or organisations who possess the power to execute the laws of the state. In India the President-in-Parliament has this power, in the U. S. A. the President wields this power and in the U.K. the Queen-in-Parliament does it. Ordinarily the people habitually obey the commands of these organs of the state but if they do not, force is applied. It should be borne in mind that sovereignty does not rest on force only. For, if the stability of sovereignty depended only on force, then the tyrannical autocrats of the world would never have been thrown out. Sovereignty has two pillars—force and consent. If we really want to keep the state intact, we must obey its authority.

Definition of Sovereignty

It is Jean Bodin who first said that there must be a sovereign in every state. In his opinion sovereignty is *the supreme power of the state over citizen and subjects, unrestrained by law*. Half a century later Hugo Grotius called sovereignty the supreme political power in the hands of an individual whose power of making laws is not controlled by any other person and whose will is not disregarded by any other person. Burgess defines sovereignty as *the original, absolute and unlimited power over the individual subject and over all associations of subjects*. According to Jellinck, sovereignty is that characteristic of the state in virtue of which it cannot be legally bound except by its own will, or limited by any other power than itself. Blackstone defines sovereignty as *the supreme, irresistible, absolute, uncontrolled authority*. Barker too believes that sovereignty is the supreme authority which resolves lawfully the disputes that

may arise within the state or among the lawfully organised people of a state.

Austin has given the jurist's view of sovereignty. We shall deal with it later. Now, the fact that emerges from the above definitions is that every scholar has taken sovereignty as a legal concept. MacIver says that the state is more a lawful guardian than a lawgiver and the state's chief responsibility is to maintain the rule of law. Thus the state itself is bound by the law. As a corollary, we can say that sovereignty too is bound by law.

Modern View

According to some modern political thinkers the definition and characterisation of sovereignty from the legal point of view fail to explain its political implications satisfactorily. So they regard sovereignty as a *power* rather than as a legal authority. In their opinion, sovereignty depends in the final analysis on the ability to exercise power. For example, in the contest in Europe between the Pope and the King, the latter won because he commanded higher and greater power. So the exponents of the *Power Theory of Sovereignty* say that the state is sovereign only because it has the power to enforce its decisions. The advocates of the power theory of sovereignty think that in the final analysis sovereignty means power.

Recently some political philosophers have opined that in the last analysis in every society it is the *elites* who actually influence decision-making. The elites, thus being the potential bases of influence, exercise the sovereign power.

Stanley Ben has tried to explain the meaning of sovereignty in a clear language free from abstractions. He has observed the following aspects of sovereignty : a. a self-sufficient comprehensive legal system, b. predominance of a system. c. supremacy of the legislature, d. capacity to defeat the enemy by military power, and e. power of a group to frame policies. It is to be admitted that there is some reflection of recent politics in Stanley Ben's concept of sovereignty.

Marxist View of Sovereignty

The Marxian approach to sovereignty is completely different from the traditional ideas. Marxism has not tried to explain sovereignty with the help of any abstract concept. It rather tries to understand sovereignty in the light of historical materialism. The Marxists believe that in order to understand the true nature of

sovereignty, we must understand the class character of the state. For, it is the economic structure of the social system that really gives sovereignty its character.

According to Marxism, in a class society the state acts as the guardian or protector of those who control the means of production. In such a society state power can never be above class interests. So, sovereignty, if it is the expression of the power of the state, cannot be above class interests.

History tells us that in every class-ridden society, the owners of the means of production use state power to further their own ends. In the slave system the owners of slaves had complete control of the means of production. Similarly, the feudal lords commanded control of the means of production in feudalism, just as the bourgeoisie control them in the present economic system. State power or sovereignty too is used to further their ends. In the feudal system the basis of the economy was land and it was the owners of land who commanded control of the economy. And when the bourgeois capitalist system grew up on the ruins of feudalism the nature of sovereignty did not undergo any fundamental change. It is now exercised by the bourgeoisie.

The Marxists say further that the sovereignty of the people can be established only in socialism. The proletariats can put an end to the oppression and political, social and economic predominance of the hitherto ruling class through socialist revolution and establish the rule of the proletariats. The socialist revolution is qualitatively a new revolution. It aims at the abolition of private property, the socialisation of the means of production, the abolition of class rule and at ending the use of state power as an agent of the bourgeoisie.

4.2 Characteristics of Sovereignty

Gettell is perfectly right in saying that sovereignty is the basis of modern political science, and that it underlies the validity of all law and determines all international relations. We have already taken note of the definition of sovereignty as given by Burgess—*Sovereignty is the original, absolute and unlimited power over the individual subjects and over all associations of subjects.* These definitions and observations lay bare certain characteristics of sovereignty. Let us now analyse them.

Absoluteness

The first important characteristic of sovereignty is its absoluteness. Sovereignty is a state's absolute and original authority. There cannot be within the state any institution or centre of power possessing any authority equal to or above this sovereignty. This authority did not come to the state as a gift and is not dependent on the will of any other organization. It is not circumscribed by any limits. It is not above or beyond law but is a legal power of settling finally the legal questions in a legal way.

We must in this connection mention several criticisms of this characteristic of sovereignty. Henry Maine thinks that though sovereignty is not legally circumscribed, yet it has certain moral limitations. According to Bluntschli, sovereignty is internally limited by its very nature and by the rights of citizens and externally by the rights of other states.

So legally and officially sovereignty may be absolute but in practice it is applicable only within generally acceptable bounds. In fact, public opinion and public pressure makes it so. As some scholars have rightly pointed out, it is neither unethical, nor unsocial, nor impossible to oppose or criticize the state. Sovereignty, as Barker says, is *in the state as a legal association, a power of final adjustment of all legal issues which may arise in its ambit*. This implies that legally the state is above all other organizations. It has authority to use power or force if its commands are not obeyed. In a democratic state the need to use force is rarely felt but in an autocracy the need is felt often. Therefore, we may say with Gettell that sovereignty depends on force and consent.

Universality

The second important trait or characteristic of sovereignty is its universality. The state is only one of the many social organizations. And the political purpose is expressed in the state only. That is why the state possesses power—a power which is applicable to all people, all institutions, all aspects of social life. Sovereignty thus is ubiquitous or universal. It extends over everything within the state. Of course, the state may recognize certain things as outside its jurisdiction. An example is the foreign Embassies. But by it the universality of sovereignty is not affected or harmed.

Permanence

Another characteristic of sovereignty is permanence. A state is in existence so long as there is sovereignty. Sovereignty therefore is

permanent. It is the soul of a state. The government of a state may change, but sovereignty will continue unaffected by any change in government. For, sovereignty is a feature of the state, not of the government.

Indivisible

A fourth characteristic of sovereignty is indivisibility. Sovereignty is not divisible. A state cannot be divided into two halves. Two states can be born out of one. But one state cannot have two halves or parts. For, the sovereign power cannot be divided. In a state there cannot be two equal centres of power, there cannot be two sovereign authorities. The sovereign power may reside in the people, in the king, in the legislature, in the president. The sovereign power is an attribute of the state and may be wielded by any of the above bodies. But the sovereign power cannot be wielded by all of them at the same time. *A divided sovereignty is a contradiction in terms.*

Some may think, however, that as the government is divided into several departments, so sovereignty also is divided. This is an erroneous idea. Actually the governments work as a result of co-operation and united work of the various departments. No one department can claim to be supreme. What is divided is governmental power, not sovereignty. As Rousseau says, *power may be divided, though 'sovereign will' never can be.* Of late there has been a great debate about the indivisibility of sovereignty. It has been argued that in a federal form of government, notably in the U.S.A., sovereignty is divided between the centre and the states. But as Willoughby has very nicely pointed out, *there is no middle ground, sovereignty is indivisible, and either the central power is sovereign and the individual members not, or vice versa.* Here by individual members is meant the local and state governments.

Inalienability

Finally, sovereignty is inalienable. The sovereign power cannot be made over to other hands. It is inalienable or nontransferable. As a man cannot give his soul to another, so also a state cannot give its sovereignty to any other state. Sovereignty is inalienable because it is not possible for a state to remain a state after having parted with it. This does not surely mean that a state cannot renounce a part of its territory or that governmental power cannot be transferred. There has been a great controversy among scholars on this point. Hobbes,

for example, said that the people had at first the sovereign power and they transferred it to the king. Locke and Rousseau, however, think that sovereign power is possessed by the people and they never part with it, nor is it possible to. Professor Garner says, *Whatever may have been the merits of the controversy, it is now generally taught by the jurists that sovereignty is inalienable.*

4.3. Various Forms of Sovereignty

There is a great controversy among political scientists about where sovereignty resides. It expresses itself in various forms and is taken to mean different things. Some take these different forms of sovereignty for different kinds of it. We will discuss them below and analyse the differences among them.

A. Titular and Actual Sovereignty

By Titular sovereignty is indicated a sovereign who by titular right wield the sovereign power on the basis of written or un-written laws. But titular sovereignty is sovereignty in name only. The titular sovereign does not possess real and absolute sovereignty. In political science, we must make a difference between titular and actual sovereignty. The titular sovereign is the symbol of absolute sovereignty in a state, but real authority of sovereignty is wielded by other hands or bodies. These other bodies who in the name of the titular sovereign use real sovereignty are called the Actual Sovereign.

The instance of the United Kingdom will make it clear. The constitution of Britain makes the King or Queen the titular sovereign. No kings or queens need any special qualities or efficiency. They will possess this power by virtue of their title as king or queen. The Parliament rules the country in the name of the Crown. For this, the king or queen of England is often called the Sovereign. But in practice, however, the king or queen has little real power, though on paper the king or the queen is the head of the state. The cabinet is the actual sovereign in England. Another example is the President of India who is more or less a titular head and the cabinet is the actual sovereign here also.

B. Legal and Political Sovereignty

By Legal sovereignty is meant the supreme power of making laws. Legal sovereignty resides in that body which expresses the absolute command of the state through laws. Law is the command of the sovereign. It is not possible for anybody to disobey the command of the legal sovereign.

Legal sovereignty is a legal concept. The legal sovereign has in the eye of law supreme power in the state. Only the legal sovereign can give shape to the will of the state through laws.

On the other hand, a force that works behind the legal sovereign, whose power or command is not expressed in the works of the legal sovereign is called political sovereign. In fact, however, it is political sovereign that gives the legal sovereign its strength and form. In the words of Dicey, *That body is politically sovereign the will of which is ultimately obeyed by the citizens of the state.* In Dicey's view, in England political sovereignty resides 'ultimately' in the electorate which forms the parliament and holds the cabinet, while the king-in-parliament is the legal sovereign there. The lawyer, however, does not recognize the political sovereign; he knows only the legal sovereign. According to Dicey the legal sovereign must bow to the political sovereign. For, would the electors of Britain support the parliament if it goes on passing laws against the interest of the people? If we think a little more deeply, we understand that political sovereignty in the final analysis resides not in the electorate but somewhere else—in the people at large, whether they possess the right to vote or not. As Rousseau thought, the General Will or the people's common will would be expressed in the direct democratic rule.

There are many scholars who consider this division of sovereignty into legal and political sovereignty absurd and unnecessary. In their view, it only gives rise to confusion and generates the idea that sove-

Criticism reignty is divisible. But these scholars are not correct in so thinking. Legal and political sove-

reignty are not two sovereignties but two expressions and forms of the same thing—two sides of the same medal. Whenever there is a fundamental conflict between legal and political sovereign, legal sovereign may be changed through elections. That is why Gettell has said that, *The problem of good government is largely one of the proper relation between the legal and political sovereignty.* Professor Ritchie also emphasizes that good government depends on the good relation and co-operation between the legal sovereign and the political sovereign. In direct democracy, as Rousseau imagined, this may not be a problem; but in representative democracy this is often a tough problem.

C. De Jure and De Facto Sovereignty

For practical purposes sovereignty is believed to take two forms—

De Jure and De Facto Sovereignty. Sometimes during wars or revolutions or when the administration is on the breaking point, the legal sovereign body of a state may find it impossible to remain in the country and may be compelled to take refuge in another friendly

country. Legally, this body is the sovereign body and its command should work. But in such cases some other individuals or group of

individuals who do not legally possess the sovereign power rule the country. In this case, the sovereign body taking refuge in another state is called the *de jure* sovereign and the individuals or the group actually performing work are called *de facto* sovereign. The basis of *de jure* sovereignty is legal recognition; and that of *de facto* sovereignty is exercise of governmental power in practice. When in England Oliver Cromwell usurped governmental power by dissolving

Examples of *de facto* sovereigns

the parliament he became the *de facto* sovereign while Charles II still remained the *de jure* sovereign though Cromwell chased Charles

II out of the country. Napoleon, Lenin, Ayub Khan and Mujibur Rahaman at one time in their careers became *de facto* sovereigns of their respective countries. Changes in *de jure* sovereignty occur when foreign enemies invade a country or a part of the army of the country revolts. After some time the *de facto* sovereign makes itself *de jure* sovereign by legal procedures. So we may say with Lord Bryce that the person or group of persons who can lawfully or unlawfully make himself or themselves powerful and can win the allegiance of the people, is or are called the *de facto* sovereign.

On some occasions, a military leader may usurp power by throwing out the legally established government. He first becomes the *de facto* sovereign. But when, after some time, he gets himself firmly settled in power, people do not remember the *de jure* sovereign whom this military leader whisked off. On some occasions, again, the *de facto* sovereign may by election or other legal procedures cover his government with a legal garb and thus win adequate recognition. In such cases the distinction between *de jure* and *de facto* sovereignty becomes unobservably narrow.

Austin is against such classification of sovereignty. For, in his opinion, sovereignty is the source of law. It can never be extra-legal. An illegal government may work, but it is not proper to dress it with the attire of sovereignty. Gettell for this reason thinks it necessary to make and maintain a difference between *de jure* and *de facto* sovereignty.

D. *External and Internal Sovereignty*

Sovereignty takes another form which is known as external sovereignty. The state by virtue of its internal sovereignty applies its supreme authority to all people and all institutions within its territory. But this is not all. The state is sovereign externally also. The authority of the state, externally, is not limited by that of any other state or any other power. This authority is known as external sovereignty. Because a state has external sovereignty, its power is absolute uncontrolled and unlimited.

As the theory of internal sovereignty has been weakened by the strong criticism of the pluralists and shaken by the idea of popular sovereignty, the theory of external sovereignty has been in recent times changed a great deal by international law and organization. Bluntschli correctly says that externally a state is limited by the rights of the other states; it is limited within by its own character and by the rights of its members. Dr. Garner thinks that external sovereignty carries no other sense than freedom from the control and influence of other states. In this sense it is a negative authority and nothing else.

E. *Popular Sovereignty*

The theory of popular sovereignty seeks to emphasize that sovereignty resides in the people. The governments acquire power from the people. In other words the basis of law is popular support. The people have every and full right to depose an autocratic ruler or a bad government through election or revolution.

We must look back to the political history of Europe in the sixteenth and seventeenth centuries. The people in those days got sick of the unrestrained and oppressive monarchical rule and writers like Marsiglio of Padua, William of Ockham, George Buchman and Althusius proclaimed the sovereignty of the people. The basis of their thesis was the law of nature and the theory of contract. Locke, we know, said that sovereign power resided in the people and not in the king. The ultimate authority, as Locke understood it, remained in the hands of the people.

Popular sovereignty found a great exponent in Rousseau. He says that *Vox populi vox die* which means that God's voice is heard in the people's voice. Rousseau's theory of social contract and the General Will has strengthened the theory of popular sovereignty. In his view, the people formed the state through a contract and the

ultimate and absolute authority of the state was expressed in the General Will. So this General Will has the sovereign power and this sovereignty of the people finds expression in the direct co-operation of the people in governmental activities. In this way Rousseau's theory of popular sovereignty inspired the French Revolution and the American War of Independence. Another strong advocate of popular sovereignty was the American thinker and politician Thomas Jefferson. This principle was accepted in the declaration of American Independence. It was stated there that the governments owed their lawful power to the consent of the governed. The French legislature went a step further in 1792. It declared that a scheme of work should be undertaken which would accept and consolidate the sovereignty of the people and the rule of liberty and equality. As Lord Bryce has said, *popular sovereignty is the basis and watchword of democracy*, especially since the last quarter of the eighteenth century.

In more modern times Professor Ritchie has spoken in its favour. He says that the people wield sovereign power directly by using their power to vote and indirectly by exerting influence or by showing a tendency to bring about revolution. But there are many political scientists who are not prepared to accept this theory. In their opinion, the theory of popular sovereignty is not based on solid practical ground. In the first place, who are the *people*? No advocate of this theory has yet been able to clearly and definitely say what is meant by the people. The people may mean either the whole population or that part of it which takes part in elections. Anyhow, it is neither possible nor advisable to leave sovereignty in the hands of an indeterminate rabble. Sovereignty may be left with the electorate only. Even this is sometimes dangerous and ludicrous. It may so happen that those who wield the sovereign power have the support of one-fifth of the electors only. This may often happen in states where the battle of election is fought among many parties. So in this case, popular sovereignty does not work in practice.

Other questions may arise also. How is the will of the people to be known? In what way is this will expressed? Is it possible for all the people to be of one opinion? In his attempt to answer some of these questions, Dr. Garner says: *The sovereignty of the people can mean nothing more than the power of the majority of the electorate, in a country where a system of approximate universal suffrage prevails, acting through legally established channels, to express their*

will and to make it prevail. But Garner's answer has failed to satisfy all political scientists. Those who do not accept Garner's explanation, imply that the term popular sovereignty has been used so vaguely and indeterminately at different times that its real meaning has not yet been known. Secondly, sovereignty is well organized and definite. But public will or public opinion has no such definiteness and clear form. So it is not possible to equate sovereignty with the will of the people.

Even if we admit that the idea of popular sovereignty is hazy, indefinite and has no precise meaning, it is not possible to overlook its practical value. In fact, no democratic government can remain in power if it is blatantly anti-people and continually rides roughshod over the wishes of the people. In modern times, Universal Suffrage, Referendum, Initiative and Recall have won wide recognition and through these the people are exerting great influence over governments and controlling and regulating them. Gilchrist says well, *The phrase 'popular control' better indicates the idea underlying 'popular sovereignty'.*

4.4. Austin's Theory of Sovereignty.

The first exhaustive and scientific study of the theory of sovereignty was made by John Austin in 1832 in his book *Lectures on Jurisprudence*. Here besides analysing the various aspects of sovereignty, Austin presented his own theory of sovereignty. A follower of Hobbes and Bentham, Austin gave a legal interpretation of sovereignty which has influenced Political Science and Law profoundly. Austin's theory of sovereignty is known as the Monistic Theory which is also the traditional and classical theory of sovereignty.

In Austin's view, law is a command—a command of the superior to the subordinate. A state is possessed of sovereignty and so only the state's command is law. As Austin himself says, *Law is the command of the sovereign.* Thus the sovereign is the source of law.

This definition of law makes the character of sovereignty clear. Austin defines sovereignty thus : *If a determinate human superior, not in the habit of obedience to a like superior, receives habitual obedience from the bulk of a given society, that determinate superior is sovereign in that society, and the society, including the superior, is a society political and independent.*

Austin's definition
of sovereignty

If we analyse this definition of sovereignty as given by Austin, we notice the following characteristics of sovereignty.

Characteristics

1. Austin has cleared the concept of sovereignty of all haziness and had made it definite and clear. In his opinion every independent society possesses sovereignty.
2. This sovereignty is vested with an individual or a group of individuals and therefore it is possible to locate it. Sovereignty does not reside in an indefinite entity like the *people* or in a hazy and vague *General Will*, or in an *untraceable electorate*.
3. Sovereignty is decisively organized, adequately defined and recognized by law.
4. The body that wields the sovereign power does not pay obedience to anybody or anything but is obeyed by all.
5. Sovereignty is not divisible or limited. It is absolute and unlimited. Sovereignty does not brook any legal obstacle in its way. Because it is absolute and unlimited, it is omnipresent or all-pervading.
6. All rights of the citizens emanate from the sovereign. In other words, sovereignty is the source of all the rights which the citizens enjoy.

Through this definition of sovereignty, therefore, Austin has stated the traits of legal sovereignty briefly but clearly. Sovereignty is the source of all rules, regulations and laws.

The British pluralist philosopher, Harold Laski has noticed three features of Austin's Theory. First, the state in Austin's view is a legally composed organization where a definite authority works as the centre and source of all power. Secondly, this sovereignty is unrestrained. Nobody can circumscribe it. So the state or the sovereign body can act unjustly, immorally and unreasonably and yet its act cannot be challenged. Thirdly, the command of the sovereign is law. Disobedience and non-compliance will entail punishment.

Criticism

Austin's theory of sovereignty has been sharply criticized by many scholars. Scholars like Henry Maine, Sidgwick, Harold Laski, Duguit and Krabbe have criticized Austin's theory from the standpoints of history, law, ethics and sociology.

In the first place, as Henry Maine has said, Austin's idea of law is wrong. Austin says that law is the command of the sovereign.

But this does not hold good in all cases. The great number of laws that have gradually established themselves through customs, usages and religious practices have not been noticed by Austin. These are not always the commands of the sovereign. The sovereign neither created these laws nor can he undo them. A very powerful king like Ranjit Singh did not create any new laws but only applied the traditional laws. Of course, the Austinians may reply that even if the sovereign does not introduce new laws, in fact *what he permits he commands*. Now the question that presents itself is : can a sovereign disregard or violate major and long-standing social customs and usages ? Possibly he cannot, in fear of revolt and revolution. Even the all-powerful British Parliament does not dare to go against traditional customs.

The pluralists criticize Austin from a different point of view. They do not think that sovereignty is the source of law. Law, rather, gets its authority and sanction from some other power. Duguit says that the people obey the law not because it is the sovereign's command but because it has a social purpose and is acceptable. According to Krabbe, we abide by the law not in fear of punishment but because we consider it justified and useful. This sense is the basis of law. "There is only one source of law—the feeling or sense of right".

Secondly, as Henry Maine has further pointed out, it has often happened in history that there has been great difficulty in clearly locating sovereignty. Austin says that the King-in-Parliament is the sovereign in England. But Professor Laski correctly points out that its power to make laws is very much circumscribed. Old precedents, social customs and the traditional usages of England are such as cannot be trampled on by King-in-Parliament. This problem is even more marked in the U. S. A. where it is almost impossible to ascertain where sovereignty lies—in the centre or in the federated states. Laski, therefore, says, *The discovery of sovereignty in a federal state is practically an impossible adventure*.

Thirdly, the pluralists do not admit that sovereign power resides in the state only and that it cannot be divided. The pluralists on the contrary say that the various other organizations and institutions also serve the society in their own ways and naturally they also have some sovereign power in their respective fields.

Fourthly, many scholars reject the idea that sovereignty is absolute and unlimited. As Leslie Stephen says, this power is *limited both from within and without*. Traditional regulations, social and

religious customs are some of its internal limitations, while international law and politics limit it from without.

Finally, Austin's theory is anti-democratic. It does not recognize political and popular sovereignty. Bosanquet says that the *Austinian sovereignty is based on the idea of force, sovereignty in our sense is based on the will of the people.*

MacIver observes that Austin and his followers "interpret sovereignty as an extreme master-servant relationship but their account is far more applicable to a slave plantation or to manageric than to the actuality of political life". Coker, criticizing Austin, says that there is in his theory nothing to distinguish between sovereignty and animal force.

4.5. Pluralistic Theory of Sovereignty

Hegel thinks that the state is the highest and omnipotent organization. Austin and his followers are of opinion that sovereignty resides in one centre of power only, that is, in this highest and omnipotent organization, the state. This theory is known as Monism. Pluralism is an attack on Monism. Among the more famous pluralists are Gierke, Maitland, Barker, Lindsay, Laski, MacIver, Cole, Figgis and Duguit. Pluralism is not merely a criticism of the Monistic theory but is gradually establishing itself as a political doctrine.

Pluralists' view of Sovereignty

The pluralists have criticized the Monistic theory from three points of view—the relation between the state and other associations ; the state and international relations ; and the relation between the state and the law.

According to the pluralists, the state is only one of the many social organizations. *Man is a bundle of interests.* Many tendencies and passions inspire man's activities. Some aspire to become great artists, some wish to carve out for themselves a good political career ; some, again, may try to make the grade in sports and games. To satisfy and to give proper direction to these multifarious interests and tendencies, various social associations are organized. Thus these associations serve useful social purposes. And the individual pays obedience not merely to the state, but to these associations as well. Thus the pluralists do not accept the monistic idea that the state is the supreme, absolute and the only sovereign body. According to the pluralists the *society is becoming more and more federal in nature.*

And now-a-days, the state is more in conflict with the 'group' or with the associations than with the individual citizens.

According to the pluralists the state cannot and should not claim greater sovereignty than these associations do. The state is just one of the many social institutions and has not higher power or place than any of these social associations. The state *does not exhaust the associative impulses of men*. The state, therefore, cannot claim full and exclusive obedience from men. Authority can be divided and it should be divided for the sake of the good of the society. Professor Laski feels, therefore, that *It would be of lasting benefit to Political Science if the whole concept of sovereignty was surrendered*.

An analysis of the pluralistic theory reveals several main traits of the theory. First, the pluralists think that the authority of the state is limited and every other association of the society has some authority in its field.

Secondly, the state's sovereignty is limited not only internally but social associations; it is externally limited by the authority of other social associations; it is externally limited by the authority of other states. If internally the state claims complete and absolute sovereignty, then individual liberty and liberty of the other associations will be in danger. Similarly, if it claims absolute sovereignty in international politics, international peace and security will be in danger.

Thirdly, the sovereign is not the source of law. In fact, the state is not above or beyond the law. State power is circumscribed by law. Law is a kind of social regulation which had existed in some form or other before the state came into existence.

MacIver has tried to show that the state can control and regulate man's external behaviour but the internal sensitivities and feelings of man's mind cannot be regulated by it. In fact, the state is incapable of it. For all these reasons Lindsay says, *If we look at the facts, it is clear enough that the theory of the sovereign state has broken away*. Laski says likewise: *The doctrine of sovereignty is a legal fiction and a barren concept*.

Criticism of the Pluralistic view

The Pluralistic theory in its turn has faced considerable criticism. In fact, it is not possible to accept this theory as flawless. In the first place, the pluralistic idea that other social associations also have sovereignty is untenable and dangerous. There may often be unhealthy competitions among these social associations. And in the absence of an over mighty or 'sovereign state' there will be none to

quell such competition. According to the pluralists, in such cases the state will act neutrally and arbitrate. Thus in an indirect manner they accept the supremacy of the state.

Secondly, the pluralists by equating the other associations with the state divide sovereignty. In other words, they have, by limiting sovereignty, divided it among the state and the other associations. But most modern political scientists doubt seriously whether sovereignty can at all be divided. They think that sovereignty is indivisible.

Thirdly, by dividing the obedience payable to the state, the pluralistic theory tends to engender disorder and anarchy. The pluralists believe that there must be spontaneity, freedom of action, diversity and individual peculiarities. These should not according to them, be interfered with. If these are allowed to operate, the other associations will work in peace. But as Lipson says, *the price of diversity is the impairment of unity*. The society is a complex composition. Unity is greatly needed to hold it together. If there is any class of interests, obedience is then not easily obtainable. Clashes may be there and to quell them there must be a supreme body with supreme, absolute and indisputable authority. The state is exactly such an organization. The pluralists have themselves admitted that since the state often acts as the arbiter in such conflicts and clashes, the state possesses more power than the other associations. Hsiao has made an interesting comment that pluralism drives away sovereignty through the front door and allows its re-entry through the back door.

Fourthly in trying to criticize monism, the pluralists have completely ignored the legal aspect of sovereignty. Monism says that sovereignty is a legal idea and it does not have and should not have any connection with ethics. The pluralists, on the other hand, refuse to recognize any difference between the legal and ethical aspects of sovereignty.

Finally, Laski, being himself a pluralist, has criticized pluralism from the Marxist point of view. *It does not sufficiently realize the nature of the state as an expression of class-relations*, he says. Thus pluralism fails to recognize that the state acts in the interests of the preponderant, powerful classes. And the power of the state would not be curbed if classes are not abolished. Until then the state will remain supreme and sovereign.

The pluralists have, however, rendered a valuable service in political theory by attacking the exaggerated importance given to the

legal and monistic view of sovereignty and the undue glorification of the state. Even the worst critics of pluralists have to admit that, by upholding the cause of association, the pluralists give due credit to the social groups, through which members of society try to realize their aims and aspirations. It must be appreciated that a too narrow and legal view of sovereignty, as advocated by the monists, is harmful to the interests of the people. And if the people's wishes are to be realized, the state must give proper representation to the different groups in society. Besides, a very important idea that can be beneficially used from the theory of pluralists is that it is necessary to decentralize power and give as much autonomy as possible to associations.

Questions

1. Define Sovereignty. (4.1)
2. Discuss the characteristics of sovereignty. (4.2)
3. Define Sovereignty. What are its attributes or characteristics ? (4.1, 4.2)
[H. S. C. '78, '79, '82 and '84]
4. Discuss Austinian theory of Sovereignty. (4.4)
5. Discuss Pluralistic criticism of Sovereignty. (4.5)
6. Write a note on the theory of Popular Sovereignty. (4.3)
7. Distinguish between
 - (a) Titular and Actual Sovereignty.
 - (b) De Facto and De Jure Sovereignty.
 - (c) Internal and External Sovereignty.
 - (d) Legal and Political Sovereignty. (4.3)

[H. S. C. '85]

Object-type Question

1. Choose the correct answer from those given in the brackets and tick it :
 - (a) A state has (only external sovereignty, *both internal and external sovereignty*). [H. S. C. '79]
 - (b) Sovereignty is (alienable, *inalienable*). [H. S. C. '85]
 - (c) (Austin, Locke, *Laski*) is a pluralist philosopher.
 - (d) (Hobbes, Austin, *Rousseau*) is the advocate of popular sovereignty.
 - (e) (*Austin*, Locke, Laski) is the advocate of Monistic theory of Sovereignty.
 - (f) Sovereignty is (divisible, *non-divisible*).
 - (g) Sovereignty is (limited, *unlimited*).
 - (h) Sovereignty means (*supreme authority*, limited authority).
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CHAPTER FIVE

National and Internationalism

5.1. People, Nationality, Nation and Nationalism

In political science the most confusing and misleading terms are *people, nationality and nation*. In ordinary and scientific discussions these terms are so variously and so loosely used by authors that they often lose their special meanings. Even the Terminological difficulty terms *caste, race and clan* are often used to mean *nation*. Again, we say we are the Indian nation. In popular talk and even in serious scientific discussion the term *Nation* is often identified with the term *State*. Moreover, the term *national* is used both as a noun and in an adjectival sense, as Garner has pointed out. We say he is an Indian national; we say he is a national professor. Thus it is evident that the term *nation* is used to mean different things.

The word 'nation' is also very confusing. It is derived from the Latin word *natio* which implies birth or race. Etymologically nation should mean a people with a common ethnic origin, but this meaning is not kept in scientific discussion. Some people on the other hand, use 'nation' and 'nationality' to mean the same thing. Thus the

Germans often use the word 'nation' in its etymological sense, while the English use it to mean 'nationality'. So the concepts of *people*, *nationality* and *nation* should be very clearly defined before we can start any discussion about them.

If some sort of unity can be discerned in the language, literature, history, and customs of men living in the same territory, then they are called a people. In other words the characteristics of organized social life are first manifest in the people. Some People scholars think that these unities do not make a people; there must be unity of origin also. All must spring into existence from the same source, that is they must have common ancestors.

A nationality is formed when there dawns among the people a political consciousness. A nationality is said to come into existence when there are close ties of kinship or race among the people, when there is only one religion and language for the people, when they occupy the same economic ties. As Lord Bryce Natinality says, *A nationality is a population held together centuries by, as for example, language and literature, ideas, customs and traditions, in such a way so to feel itself a coherent unity distinct from other populations similarly held together by like ties of their own.* A nationality is a developed people. As Zimmern says, *if a people feels itself to be a nationality, it is a nationality.* He means that it is the mental make-up of a people that really plays the decisive role in the formation of nationality.

So, Nationality = People plus Consciousness.

When unity and political consciousness become deeper and more markedly distinct in a nationality, a nation is then said to be born. According to Bryce *a nation is a nationality which has organized itself into a political body either independent or desiring to be independent.* Mazzini has called any Nation race a nation if it has common ancestry and kinship. In his own words, *a nation is a race, descended from common ancestors, and sharing some kind of blood consciousness.* It may be noted in this connection that some people use the terms *nation* and *state* to mean the same thing. But this is wrong. In political science the two terms have different meanings and connotations. Gilchrist has said that the state and nationality together go to form a nation.

So, Nation = State plus Nationality.

By *nation* Professor Burgess means *a population of an ethnic unity, inhabiting a territory of a geographic unity*. The Indian Aryans are an example. The Aryans of India lived in the geographical limits of India and ethnically were of the same stock.

But some scholars have criticized Burgess and have said that his definition is not scientifically correct, nor does it conform to common usage. According to these critics *nation* does not mean merely a people. Even it does not require geographical unity. By ethnic unity Burgess means that a people must have a common language, common history and tradition, the same set of customs and the same mental make-up. But other scholars do not accept Burgess' view that the sameness of language is essential for making a nation. They show that the Swiss nation does not have one language and the same ancestry. So is the case with the Belgians. It is not to be denied that the sameness of language makes a nation but there are other factors too.

The French thinker Renan said it was not common language and race that would make a people a nation but the sentiment of a common heritage together with a desire to live in the same state. So a nation is a culturally homogeneous group which is *at once conscious and tenacious of its unity of psychic life and expression*. Nation thus is a living spirit, a mental thing. Renan strongly feels that men are not subservient to the dominant influence of race, language, religion and geographical proximity. So these do not go to make a nation.

According to Stalin, a nation is a historically evolved stable community of language, territory, economic life, and psychological make-up manifested in a community of culture.

It should be remembered, by the way, that no nation existed in the early stages of history. And nationalism, as political science understands it, is a very recent phenomenon. The ancient Greek city-states, the ancient Roman Empire, and the Holy Roman Empire knew no nations. Nation-states started to grow around the fifteenth and sixteenth centuries, in England under the Tudors, in France under the Bourbons and in Spain under Ferdinand and Isabella. The growth of the nation-states broke up the old social system and gave birth to a new structure.

It is not that the boundaries of states always correspond to those of nation. Thus there are mono-national states as well as poly-natio-

nal states. Pakistan is an example of the former, while the U.S.S.R. an example of the latter.

Mono-National and Poly-National State

Boundaries of the nations do not always coincide with those of the state. That is why both Mono-National and Poly-National States have grown up in the world. A state composed of one nation is a mono-national state. Pakistan is an example. On the other hand a state composed of more than one nation is a Poly-national state of which the Soviet Union is an example.

What is Nationalism ?

A nation's kindredness and sentiments of unity find expression in what is known as *nationalism*. Nationalism is a feeling, an emotion that expresses itself through political aspirations. Some, of course, like Renan, say that no material or physical elements are needed for the development of nationalism. According to MacIver, however, *nationality is the sense of community which under the historical conditions of a particular social epoch, has possessed or still seeks expression through the unit of a state*. History teaches us that nation-states and nationalism have developed through and in the midst of fundamental changes in the social condition. At some stages of social change and within definite geographical areas nations have grown up on the basis of cultural unity and the feeling of nationalism have found expression in them. This view of the origin of the nation and nationalism is similar to the Marxist view of it.

Lipson thinks that when people stand united under a banner or symbol and think of themselves as the citizens of the state to which they belong and when they forget about separate religions, languages or regions, they may be said to have become a nation. And this sense of belonging to one nation is called nationalism. For example, when we cease to think of ourselves as Bengalees, Oriyas, Assamese or Marathis and identify ourselves as Indians we are then a nation and our consciousness of being Indian is called our nationalism.

5.2. Elements of Nationality

Certain elements are essential for the development of the sense of nationality. According to political scientists these elements are racial unity, unity of language, community of religion, common political aspirations, unity of economic interests, cultural unity, etc.

Racial unity

The first and foremost element of nationality is surely racial unity. When a people feel that they possess the same racial traits or that the same blood flows in their veins they are said to be kindred. Hitler aroused among the Germans the feeling that the Nordic race was the greatest and they bore the best Aryan qualities. But there are many modern scholars who do not consider racial unity an important element of nationality. Racial homogeneity may help national bond, but is not essential. Garner is correct in emphasizing that race is a phenomenon, whereas nationality is a complex phenomenon into which spiritual elements enter. To identify race and nation is to subordinate moral conscience to organic life.

Unity of language

Unity of language is another element of nationality. Language is a means of communication of feelings and ideas. People who speak the same language develop the same literature and culture also. A feeling of nearness is grown among a people speaking the same language. Unity of language, like that of race, is no longer considered by scholars an absolutely necessary condition of nationality.

Geographical unity

The third element of nationality is geographical unity. When a people inhabit for a long time the same territory, and draw their drink and food from the same soil, they naturally are inspired by a sense of oneness. But nationalities composed of peoples distributed over territories that are not contiguous are also known. The Poles and the Yugoslavs before the First World War are cases in point.

Unity of economic interest

The unity of economic interests and ties is another element of nationality. People who are bound by the same economic ties, who enjoy the same privileges and who take part in the same struggle feel that they are one people. In the struggles of the working class this economic factor has become a great cementing factor.

Religious unity

In history we sometimes find religion to be at the root of strifes

and civil wars. But still religion, by and large, is a mark of nationality. In former times religion was often regarded as one of the most important factors which create and consolidate nationality. But nowadays political scientists do not consider it an essential element of nationality. It may still be observed that in Europe the religious differences between the Catholics and the Protestants proved to have harmed the growth of nationality. On the other hand, there are nations whose nationality has not been impaired by religious differences.

Unity of political consciousness

Unity of political consciousness and aspirations is another important element of nationality. If a people feel that they wish to live under the same laws or aspire to independence or *to a large autonomy in the matter of government*, the natural fruit is nationality. If a people live under a political system and are inspired by the same political consciousness that is called the unity of political consciousness. The struggle for independence in our country gave rise to a political consciousness which went a long way to form our nationalism.

Unity of culture

Culture is another element of nationality. Unity of art, literature and ideas also go to create nationality. Unity of culture brings likemindedness. Often this likemindedness cuts the wall of religion across.

An assessment

The question that now arises is whether all these elements are essential in creating nationality. We have already seen that all of them are not essential. Some of these elements are not applicable in the cases of many nations. Racial purity is not important, for many nations are formed by a fusion of races. About religious unity the same thing can be said. There is no unity of language in India and Switzerland. We cannot regard geographical proximity as essential either. The development of a single nationality is possible in widely differing geographical situations. Again different nationalities are possible in the same geographical situation.

In fact, the most important element of nationality is emotional

and sentimental. It is the product of unity of interests and ideals. When this emotional unity, this feeling of common interests and ideals, cuts across the narrow local bounds and elevates the social consciousness, a long journey is made in the road of nationality. In the case of India, we come across different ways of living in different areas. These differences have been caused by racial difference, and differences of religion, culture and geographical situation. And yet through all these differences an emotional unity stands out and this emotional unity has made the Indians into a single nation.

5.3. Is India a Nation ?

The question whether India can be considered a nation or not has been raised time and again. We have said before that a nation is a people who are unified by racial unity, unity of language and literature, geographical proximity, historical unity, religious unity, unity of economic interests, cultural unity and unity of political consciousness. Now it may be seen to what extent these elements are present in India.

Racial unity is absent here, for, Indians are not one race. There is no unity of language. Indians speak many different languages. Tamil, Bengali, Urdu, Kanadi and Hindi, etc. are so apart from each other that language has stood in the way of the unification of India. Religious disunity is still deeper. Apart from the two main religions, Hinduism and Islam, there are innumerable minor creeds. It is really a tricky problem as to how to overcome the religious barriers and integrate India. We cannot, moreover, say that there is geographical nearness in India. People who live in the northern mountain regions cannot have any geographical proximity with those living in the rainwashed Cherra-punji or the desert areas of Rajasthan. If we look for a cultural unity in India, we will also draw a blank. For we will notice a large variety of rites, worship, tastes and dresses. So it can be said perhaps unhesitatingly that the elements and factors that theoretically make a nation are not present in India.

If we analyse the formation of nations, *i.e.*, if we study nations in the making, we will find many of these so-called elements absent. Very few nations, for example, have racial unity, religious unity and

racess have mixed up and yet they form one nation. The Swiss people are divided racially and linguistically and yet they are a nation.

So we can say that these elements are not indispensable for making a nation. Mountains and rivers, religious differences and differences of language and culture have not always been able to divide a nation. In spite of these differences there grow among a people a spiritual and mental unity to belong together, to live together. This spiritual unity creates a unity amidst the diversities and makes a nation. India has become a nation in this way.

There is among the Indians a basic or fundamental unity that outshines the diversities. The Indians were subjected to the same government and the same oppression under the British. All Indians fought together to come out of the British rule and this has surely consolidated the unity. All Indians—whether they live in the hilly tracts of Assam or in the shores of Bombay, or whether they speak Hindi or Tamil—have common interests. All of them are inspired by the same spirit of nationalism. So the British rule in India has helped indirectly the emergence of Indian nationalism. India thus is very much a nation. After independence the unity among Indians have increased markedly and the differences of religion or language have begun withering away. The much powerful sense of oneness has dawned in us. The efforts of the government for national integration and the all-India outlook of a few political parties have gone a long way in achieving this unity. Nationalism is a spiritual unity. And India is a nation that stands on the firm ground of this spiritual unity.

But we should remember that the anti-national forces in India are quite strong. Riots on grounds of religious fanaticism and linguistic differences are not unknown here. There are fissiparous tendencies and some anti-national forces are at work in these cases. The well-to-do people still look down on the lower classes and oppress them; the rich tyrannize the poor. The differences of religion and language are kept carefully and discreetly active; petty regionalism is still being stirred up. These clearly undermine national integration. So if we can demolish these anti-national factors and forces and consolidate the unity of the nation, India's nationhood will be complete and unquestionable.

5.4. Theory of Self-determination

Every nation has its own distinct entity, its own character and aspirations. These aspirations find expression in a separate state. This is why in the mid-nineteenth century the demand of every nation to have its own separate state became very strong indeed. Every nation wants to form a state of its own so that its aspirations and

President Wilson: one nation, one state
 imaginations may be fulfilled. This demand is known in Political Science as the demand for self-determination. As President Woodrow

Wilson has said, self-determination is not a mere phrase; it is an imperative principle. Actually the idea that every nation should have its own state is the basis of the very familiar principle—*One nation, One state*. The theory of Self-determination or One Nation, One State is a powerful slogan of the mono-national state against the poly-national state. John Stuart Mill says, *where the sentiment of nationality exists in any form, there is a prima facie case for uniting all the members of the nationality under the same government..... This is merely saying that the question of government ought to be decided by the governed.*

There are scholars and politicians who do not think that the theory of self-determination can be applied everywhere. Any way, we shall now put forward the main arguments in favour of and against the theory of Self-determination or One Nation, One State.

Arguments in its favour

For a balanced analysis of the principle of self-determination we need to look at the arguments levelled in its favour as well as against it. A very powerful argument for self-determination is that every man, or for that matter, every national has an obvious and natural tendency towards liberty and freedom. As MacIver has said, the spirit of freedom—a spirit that is widespread, complex, subtle and yet very powerful—wants to take shape and find expression in an organization. And this organization, inevitably, is the state.

Secondly, every nation has its special entity and characteristics. These characteristics are developed in its own way and independently. So for the free development of a nation it must have its own state.

Thirdly, this principle should be accepted on the ground of democratic considerations and individual liberty. For, according to democratic principles, it is for the people themselves to decide who would rule or would control state powers.

Fourthly, as John Stuart Mill has said, the boundaries of states should coincide with those of nationalities. Mill thus seeks to make the principle of 'one nation, one state,' an important and a necessary condition of democracy. Mill says further that free institutions are next to impossible in a country made up of different nationalities. The famous philosopher Bertrand Russel also says, *There can be no good international system until the boundaries of state coincide as nearly as possible with the boundaries of nations.*

In the fifth place, it has been pointed out by some political scientists that it is wishful thinking that conflict among states would increase if self-determination were accepted. On the contrary, peaceful relation is likely to be established. For, instead of forcibly uniting two or more nations, the principle of one nation, one state, when applied will bring independence and co-operation.

Some political scientists, again, refer to Bertrand Russell's highly telling analogy—*To force a people to live under a government not that of their own nation was felt to be like forcing a woman to marry a man whom she hates.*

Seventhly, by forming a state of their own the minorities may be freed from the oppression and injustice meted out to them. Finally, the theory has been supported on the grounds of individual liberty and democratic principles. If a people aspires for independent development, why should it be ignored?

Arguments against it

The arguments against the principle of self-determination may now be analysed. In the first place, it is possible to accept the theory of 'one nation, one state' but nobody knows where it would lead to. Any people inspired by some impulse may declare themselves a nation and demand a separate state. This principle, if accepted, would divide Great Britain and Switzerland each into four states, and India into many more.

Secondly, we will not solve all problems by dividing states in this manner. For, different nations are so inseparably linked by economic, social and cultural ties that they cannot effectively be separated by erecting the walls of separate states.

Thirdly, as Lord Acton, a very strong opponent of this theory, says, nationality has nothing to do with the state. Rather, it is an enemy of the state. Lord Acton considers nationality *more absurd and more criminal than the theory of Socialism.* He thinks that

different nationalities strengthen the basis of the state just as people speaking different languages strengthen that of the society. *Where political and national boundaries coincide, society ceases to advance, and nation relapses into a condition corresponding to that of men who renounce intercourse with their fellowmen.* Lord Acton denounced the theory of nationality as a retrograde step in history.

Fourthly, sometimes it is insurmountably difficult to collect all the people of a nation who may live in widely separated countries. Moreover, that such an arrangement does not work well or is a drag on international peace and security was amply demonstrated by the events after the First World War. When, again, in 1947 the state of Pakistan was formed by slicing off two fringes of India, it was not possible to recall all muslims from India.

Fifthly, experience shows that when different nationalities exist within a state, the backward nationalities, in close contact and association with the more advanced ones, have an opportunity to develop themselves.

Sixthly, if every nation forms a state of its own, there will be many small-sized states. Unduly small size prevents states from becoming economically self-supporting because resources are divided. Too small a size also makes it difficult for a state to defend itself well.

Finally, according to some, the theory of Self-determination is dangerous and should not be applied. Lord Curzon described it as a *double-edged sword*—it inspires people to unite and on the other hand, it engenders fissiparous tendencies and sows seeds of disintegration.

Concluding remark

From this discussion it becomes clear, the right of self-determination is not an unmixed blessing. It is acceptable as a matter of principle but is not always applicable in practice. It is not to be denied that for fullest development of a nation it is desirable that it should not be forcibly lumped together with other nations under one Government. But none the less, it must also be admitted that if every nation were to have its own separate state, there would be an infinite number of states in the world, so to speak, and as a result innumerable problems would crop up. Political scientists, therefore, think that the principle of self-determination may be applied in cases of the large, unwieldy nations. And in cases of the smaller nations, one state with a federal form of government is the real solution.

Through a federation different nations can advantageously develop themselves. If a federation is well formed and sufficiently broad based, it can ensure the all-round development and preserve the diverse interests and ideals of different nationalities.

5.5. Value and Limitations of Nationalism

In the modern world Nationalism has acquired such a form as cannot be regarded as emotional entity. In many cases complexes of racial superiority, caste superiority or egotism are becoming predominant and are passing for nationalism. The real nature of nationalism will be clear if we discuss the good points and limitations of nationalism.

Value of Nationalism

Many weak and subject countries, inspired by healthy and moderate nationalism have braced themselves up for struggle for liberation and have transformed themselves into free, powerful and developed states. Nationalism has strengthened and unified small and divided nations and has contributed to their all-round growth.

Secondly, the basic principle underlying nationalism is—live and let live. Acting on this principle mutually dependent states can develop friendly relations with the others and can thus accelerate the national progress. This ideal of nationalism, instead of producing conflict, prepares the atmosphere of mutual trust and help among states.

In the third place, as Mazzini, the 'prophet' of modern nationalism, has said, every nation possesses certain special talents which taken together form the wealth of the human race. In Mazzini's view, nationalism by developing the talents and resources of different nations turns them into the immense good and welfare of humanity in general.

Fourthly, in many countries nationalism has brought down autocracies to the earth and has prepared the ground for democracy. Thus nationalism has a definite democratic content.

Finally, if states are formed on the basis of nationalities, they have a solid foundation and are likely to be more permanent than states which are not. For, in the former case, citizens try to keep laws and discipline for the security of the nationalist state. As Burgess says, the settlement of conflicts regarding sovereignty and liberty becomes easier when states are formed on the basis of nationalism.

Limitations of Nationalism

But nationalism is not, as we have seen before, an unmixed blessing. Quite often nationalism degenerates into outbursts of narrow egotism and engenders hatred, misgiving and a host of vile complexes. This narrow nationalism, if it can be called nationalism at all, may make a nation feel that it is the greatest nation, and that it can do no wrong as Hitler's Germany tended to feel.

Secondly, a state guided by blind nationalism sometimes tries ludicrously to bring everybody and everything in line with the narrow national policy. Such mechanical uniformity produces an uneasy atmosphere by crushing differences of opinion.

Thirdly, by throwing all reason and tolerance to the wind, this violent, aggressive nationalism creates intolerance, blind impulse and a sort of frenzied competition and vitiates the international atmosphere.

Fourthly, under such trying circumstances, men often fall a prey to terror and tend to surrender meekly. Naturally, therefore, all possibilities of the multifarious development of a nation disappear under the tremendous pressure of this hateful nationalism.

Fifthly, the violent nationalism that utterly disregards humanity and lets loose hatred and violence inevitably gives rise to fascism and suppression of democratic rights. Such nationalism is not amenable to reason and puts the national interest above everything else and considers war the only solution of conflict. We noticed the rise of fascism in Italy and Germany after the First World War. And curiously, behind this fascism there was a narrow, blind nationalism in both the countries.

Sixthly, as Professor Hayes says, it is sometimes possible to confuse nationalism with patriotism, but in fact nationalism is a boastful, vainglorious mental impulse. The impulse gives rise to parochialism and makes a nation hate others. Hayes, therefore, describes this nationalism as a sort of neurosis, a kind of intensified self-conceit.

This dreadful, frenzied and destructive face of nationalism scared Rabindranath Tagore who painfully commented *Nationalism is a menace to civilization*. Pained by the miserable plight of humanity caused by aggressive nationalism, the poet denounced nationalism and advocated internationalism.

5.6. Nationalism and Civilization

It is thus seen that balanced nationalism can help the development of nations, while violent, aggressive, parochial frenzies are just a travesty of nationalism and trample humanity and flout reason, tolerance and goodwill. More often than not this narrow, egoistic nationalism lets loose the blizzard of violence and imperialism and brings civilization to an utter crisis.

During the Second World War and after, the small, weak and subject nations were butchered one after another, so to say, by this aggressive, frenzied nationalism. The sense of justice, humanism and nobility disappeared as it were from the face of the earth. Imperialism, sometimes under the guise of nationalism and sometimes nourished by it, nearly throttled the unassuming, sickly countries of Asia. Rabindranath Tagore described this aggressive, destructive nationalism and narrow patriotism as fierce self-idolatry of nation-worship and considered it a menace to civilization.

Primarily nationalism develops along capitalism on the ruins of feudalism. The struggle against the disorder and exclusiveness of feudalism helped nationalism in a large measure to take root. Thus the growth of modern nationalism coincided with the new mode of production in Europe. Capitalism and nationalism The capitalist countries build colonies and empires with a view to collecting raw materials and finding new markets for their manufactured goods. These countries excite their people with nationalist propaganda. As Professor Laski says, *as power exceeds nationalism becomes transformed into imperialism*. First in the shape of economic imperialism and then naked political imperialism, this nationalism establishes colonialism in the weak and underdeveloped countries.

The aggressive nationalism of America, Europe and Japan tore the Afro-Asian countries asunder during the Second World War. On the other hand, the nationalism that had brought forth fascism in Italy and Germany rocked the world with its demonic violence. Nationalism firmly established Fascism and Nazism on the plea of the *white man's burden*, as Kipling put it, or the *superiority of the Nordic race* as Hitler so boastfully announced. As a result, Italy swallowed Abyssinia and Germany annexed a host of other countries.

Aggressive nationalism
of the West

In Spain, on other hand, as a result of the studied non-intervention, the republic was allowed to collapse. For this crisis of civilization we must hold the nation states of the West responsible. Their distorted view of nationalism and their complex to racial superiority are a danger to humanity, a danger to civilization. Rabindranath has sounded a grave warning for these aggressive nationalists to hear. He says that if nationalism goes on flouting humanity in this manner, individual interest one day will become an enemy of nationalism and will flout it also.

We may say with Professor Hayes that *nationalism when it becomes synonymous with the purest patriotism will prove a unique blessing to humanity and to the world.*

5.7. Internationalism

Internationalism is a sublime and lofty idea. Love of man for man, mental nearness between men of different countries and fraternity among all the people under the sun are the pillars of internationalism. When they cross the bounds of nation states and spread over the world, the ground of internationalism is then prepared. Internationalism has appeared on the scene as an antidote against ultra nationalism, militarism and imperialism. *Live and let live* is what internationalism aims at. To regard the art, culture and scientific progress of any country as the property not of that country alone but of humanity as a whole is the basis of internationalism.

There has been a tendency nowadays to form nation-states. Citizens of one state tend to regard those of others as absolutely unrelated and dissimilar people for whom they need not feel any compassion. In the present century, unfortunately, this deformed nationality has become very violent and aggressive. Apart from the scattered battles there have been two world wars that have brought disgrace to civilization. Poison gas and microbe bombs were used in the First World War; and the terror and destruction that the atom bomb can strike was seen in the Second. Scientists have become mere pawns at the hands of the politicians, and have surrendered the future of mankind to a handful of insensible and unscrupulous men for a mere *thirty pieces of silver*. The intellectuals of one country excite their own countrymen against those of the other states in the name of nationalism. Even the common people

What is
Internationalism ?

Need for
Internationalism

Sovereignty of
nation states

sometimes in the name of nationalism support their government's clearly unjust acts. Every nation state keeps sovereign power with itself in dealing with its own citizens and in its relation with other states. This absolute sovereign power in the hands of nation states has increased the possibility of conflicts and wars.

But of late this nationalism has been widely condemned. The separate existence of nations has jeopardized the entire existence of humankind. As Profssor Laski says, nationalism that implies the sovereign right of states *is fraught with grave danger* and this sovereign power should be wrested from the hands of the states. In

Parliament of Man and
Federation of the World

Rabindranath Tagore's view also, as we have seen, this ultra-nationalism brings the crisis of civilization. The idea that man is the same

everywhere, that men living in widely separated territories are but part of the unified mankind, is not new. We are now gradually coming to the realization that it is no use dividing states according to nations. Tennyson also dreamed of a bright possibility :

*Till the war-drum throbbed no longer,
And the battle flags were furled,
In the Parliament of Man
The Federation of the World.*

... The Parliament of Man or Federation of the World is the poet's imagination but we should make an all-out effort to make it a reality.

Of course, attempts have already been made to translate this imagination of a poet into reality. In near future this lofty ideal of internationalism may be reached and some sort of an International

Nation states a step
towards international
state

State may take shape. Human society has been evolving continually. Family extended itself into clan, clan developed into tribe and from the tribe evolved the nation. But evolution

cannot stop here. So it is possible to hope that formation of states on the basis of nations is not the final stage in the evolution of the State. Mankind surely is progressing towards an international state.

In the modern world, the mountains, rivers and oceans are no longer able to make contact among nations difficult. Literature of one

Forces that favour
internationalism

country is getting translated into the language of another. Communication of ideas is becoming increasingly easier than in former times.

International markets are developing for the sale and purchase of certain commodities ; a good number of countries have, owing to the

growth of international trade, become dependent on other countries. It is becoming increasingly difficult for any country—however powerful or rich it may be—to live in complete isolation. Any event in any corner of the world evokes interest in other parts of it. Any ripple in New York's money market may send Thailand, for example, into revolt; or, a bumper wheat production in the U. S. A. may bring inconvenience to the wheat growing peasants of India. Thus it is only natural that many political scientists are hopefully thinking that the days of the sovereign nation states are numbered.

In the meetings and conferences of the United Nations, delegates from various countries talk among themselves and try to understand one another's problems. This surely is conducive to international understanding. Organs of the United Nations like the Human Rights Commission, Food and Agricultural Organization and International Labour Organization have been working for international peace and understanding.

Men today are especially serious about keeping international laws. It is becoming very difficult indeed for any sovereign nation state to use the gas bomb or the atom bomb in flat defiance of the world's public opinion. The experience of the two World Wars has taught the people not to yield meekly to the sovereign power of nation states. Yet there are men even today who do not find any fault with aggressive nationalism. Aggressive, bumptious nationalism, like an old, corrosive gangrene, is still there among some people. Selfish economic greed, religious fanaticism, violence of military power and colonialism are some of the formidable enemies of internationalism.

On the other hand, the slogans of international communist movement—*workers of all countries unite* and *workers have no fatherland* have contributed a great deal towards the consolidation of fraternity among workers of the world. The proletarian internationalism has held high the loft ideal of internationalism. The basis of this idea is the unity of the oppressed people of the world and the active participation in their struggle against oppression. This outlook of *Proletarian Internationalism* has dealt a great blow to narrow nationalism by uniting all workers and oppressed people against imperialism and bourgeois capitalism. But we must bear in mind the important fact that this proletarian internationalism is not opposed

to every kind of nationalism. It, for example, extends its warm support to the nationalism which fights imperialism.

So, in spite of the presence of those forces, we have reason to hope firmly that an international state will be formed in near future. Exhausted by two World Wars humanity is watching the mad bragging of the atomic powers; the triumphs of science have made some men as insensible and crazy as to work for self-effacement. Yet we hope that the Parliament of Man and Federation of the World will soon be a reality. And only the lofty ideal of internationalism can translate our hope into reality.

5.8. Nationalism and Internationalism

It is internationalism alone that can save civilization from the grim crisis that the deformed, distorted nationalism threatens to bring. Only internationalism can clear the world of the scum that nationalism has left on the face of the earth.

In the modern world, inter-dependence among states is on the increase. No state in the present world can possibly live in complete isolation and by itself as Aristotle thought. So co-operation should be substituted for competition. In the words of Jawaharlal Nehru, *The alternative to peaceful co-existence is co-destruction*. That is why man's love for man is no longer confined within the limits of nation states and spreads far beyond. That is why, again, men are finding it necessary to organize a World Federation of States that will remain bound by international law. The first attempt at organizing such a federation was the League of Nations formed after the First World War. The United Nations appeared as a more mature and better integrated international organization. Such international organizations can succeed only if some sovereignty is shed and some sacrifice is made. Professor Laski says that an international organization can be formed and it will work if the nation states take a position between absolute sovereignty and absolute subservience.

It can hardly be doubted that internationalism is a sublime ideal. Only such an outlook can solve the problems that generally arise in the relationship of states in this age of science. But still one has to remember that internationalism is not yet a universally accepted ideal. Some people are, therefore, not sure of its prospects. The ultra-nationalists regard internationalism as a nonsense and will surely try to combat it.

Now a question arises—are the nationalism and internationalism mutually opposed ideals, or do they complement each other? Zimmern puts it so beautifully—*The road to Internationalism lies through Nationalism*. This implies that there is hardly any contradiction between the two ideals. The Italian nationalist leader, Mazzini, described humankind as the collection of nations inspired by nationalism. He saw no possibility of conflict among these nations. Rather every nation by developing its distinct qualities and possibilities will promote and contribute to the establishment of international peace and brotherhood. In fact, internationalism does not demand the total renunciation of nationalism. On the contrary, internationalism should be based on nationalism. The creative force of nationalism cannot be denied. So long as the sovereignty of nation states will remain, we will have to achieve internationalism through nationalism.

But the problem lies elsewhere. Often now-a-days nationalism composed as it is of various interests and elements, forsakes the normal, healthy path and degenerates into jingoism and imperialism. We can, however, hope that this is only transitory and sooner or later, nationalism and internationalism will develop hand in hand; nationalism will then be regarded as a means to internationalism.

Questions

1. What is a Nation? How does a Nation emerge? (5.1)
2. Define Nationality and Nation. Is there any difference between them? (5.1) [H. S. C. '79]
3. What are the elements of nationality? (5.2) [H. S. C. '79, 81]
4. Is India a Nation? (5.3) [H. S. C. '81]
5. What do you mean by the Theory of Self Determination? (5.4) [H. S. C. '78]
7. What is meant by the principle of Self Determination? Discuss the arguments for and against it. (5.4) [H. S. C. '80, '82]
8. Discuss the principle "One Nation, one State."
Or, Discuss the doctrine of Self Determination. (5.4)
9. Should the boundaries of the States coincide with those of nationalities? Give reason for your answer. (5.4) [H. S. C. '83]
10. What is a Mono-national State? Give the arguments for and against Mono-national States. (5.1)
11. What is Nationalism? Discuss the merits and demerits of Nationalism as an ideal. (5.1) [H. S. C. '78]
12. "Nationalism is a menace to civilization."—Discuss. (5.6)

13. "The road to Internationalism lies through Nationalism"—Discuss. (5.8)
14. Discuss the relation between Nationalism and Internationalism. (5.8) [H. S. C. '81]
15. Is Nationalism opposed to Internationalism? (5.8) [H. S. C. '82]
16. Write a note on Internationalism. (5.7)
17. What is meant by Nationalism? Is it opposed to internationalism? (5.1 and 5.8) [H. S. C. '84]
18. What is the meaning of 'Nationality'? Discuss the essential elements that go to make a Nationality. (5.1 and 5.2) [H. S. C. '85]

Objective-type Questions

1. (a) State four important elements of nationality.
 (b) "Nationalism is a menace to civilization". Who said this?
 (c) What is the other name of the theory of Self-determination?
 (d) Name a Poly-national State.
 2. Tick the correct word in the bracket :—
 (a) Nationalism is a/an (social/emotional)/religious feeling.
 (b) (Healthy/Aggressive) nationalism is a menace to civilization.
 (c) Nationalism+(society/government/state)=Nation.
 (f) People+Political consciousness=(state, nation, nationality)
 (g) (Mill, Rabindra Nath, Lord Curzon) says that self-determination is a double edged sword.
-

WE THE PEOPLES OF THE UNITED NATIONS DETERMINED
*to save succeeding generations from the scourge
of war, which twice in our life time has brought
untold sorrow to mankind, and
to reaffirm faith in fundamental human rights,
in the dignity and worth of the human person,
in the equal rights of men and women and of
nations large and small, and*

Preamble to the Charter of the United Nations

CHAPTER SIX

The United Nations

6.1. Background of the Formation of the United Nations

The vastness of the First World War, the magnitude of the losses it involved and the unsparingness of the suffering it inflicted, produced a revulsion of feeling against war and confirmed in men's minds the idea that war cannot end war. As a result, politicians formed the League of Nations in 1919. In the preceding chapter we expressed the need of the 'Parliament of Man and Federation of the World'. In fact, the League of Nations was the first serious attempt at translating that hope into reality.

But the League failed in its attempt to maintain international peace and security because the powers in their own imperialist interest completely seized it and used it as they liked. The League was virtually defunct when the Second World War began. In 1945 the League of Nations was formally declared dead and in its place the United Nations appeared on the ruins of the League of Nations.

Origin of the UN

Although the United Nations came into being in 1945, the need to establish such an organization had been felt already in 1941. In the Atlantic Charter, the American President Franklin Roosevelt and the British Prime Minister Winston Churchill declared that some arrangement must be made so that every country can develop in peace and freedom. Afterwards, about 22 countries supported that sentiment expressed in the Atlantic Charter. Later this Declaration was called the United Nations Declaration. In 1943, foreign ministers of Soviet Union, the U. S. A., the U. K. and China met in Moscow and agreed that an international organization composed of the free and peace loving states to be formed on the basis of the principle of sovereign equality of states. In Dumbarton Oaks in 1944 Russia, America, England and the representatives of Chiang-Kai-Shek framed a draft of the Charter of the United Nations. This draft Charter was discussed in April, 1945 at the San Francisco conference. The draft was revised and amended and was declared to be the Charter of U. N. It was this conference that set the outlines of what was to be the future United Nations Organization. In this conference the League of Nations was formally declared dead. About the unceremonious end of the League, Nicholas says beautifully that in the excitement over the new-born, nobody cared for the funeral rites of the dead.

6.2. Aims and Principles of the UN

The aims and principles of the United Nations have been announced in the Preamble to the Charter and in the beginning chapter very clearly, beautifully and in a poetic language.

Aims of the United Nations

In the preamble it has been stated that in the two World Wars mankind has suffered untold losses. The United Nations is resolved to save the world from the terror of war. Article I of the Charter states that

1. The United Nations will maintain international peace and security and will combat any attempt at breaking peace and at throwing security overboard. For this the United Nations will act collectively.
2. The establishment of friendly relations among nations is also stated to be among the aims of the United Nations.

3. It will, moreover, safeguard and extend the fundamental rights like economic, social, cultural and human rights.

4. It has also been declared that the UN will, by recognizing the equal rights and the right of self determination of nations, try to create in international politics an atmosphere of co-existence and co-operation. It has been firmly hoped that United Nations will function as a centre of harmonious action of the nations for the attainment of these aims.

Principle of the United Nations

For the fulfilment of these aims the United Nations will adhere to certain principles stated in Art. 2 of the Charter. On the one hand, the sovereign right of nations has been recognized and on the other, the member states have resolved to work for the peaceful settlement by participating in the system of collective security. Three kinds of duties are mentioned. First, member states must always try to settle international disputes amicably. Secondly, they must refrain in their relations from show or use of force against the territorial integrity or political independence of any state or from any acts contrary to or inconsistent with the purposes of the United Nations as laid down in the Charter. Thirdly, the member states of the United Nations shall co-operate and assist in any action taken by it and shall not help state against which action is taken.

Apart from these it has been resolved that the United Nations shall ensure that the states which are not members of the Organization will also act according to its principles as far as the maintenance of international peace and security may demand. The United Nations will regard matters essentially within the domestic jurisdiction of a state as definitely beyond its scope.

6.3. Comparison between the League of Nations and the United Nations

Some critics tell us that the United Nations is nothing other than the League of nations under a new name. There are some other critics who, however, see certain novelties in the United Nations. A comparison between two may, therefore, be gainfully attempted.

Both the organizations believe that international peace and security can be achieved and maintained only by organized and collective effort. Both were organizations of sovereign states,

although the League definitely had certain limitations. The General Assembly and the international Court of Justice of the United Nations almost exactly resemble the General Assembly and the Permanent Court of Justice of the League of Nations. The International Labour Organization is also more or less the same in both. The Security Council of the United Nations has been composed on the model of the Security Council of the League. For these reasons, some critics believe that except for the minority and the disarmament clauses almost all other aspects of the League of Nations have found expression in some form or other in the United Nations.

But certain dissimilarities may nevertheless be noted. The United Nations is an organization with a far better prospect than the League of Nations. Had it not been so, the United Nations might not have come into being. Of all the big contemporary states only a few became members of the League of Nations. But all the big powers of the present-day world are represented in the United Nations. As Professor Eagleton says, in spite of the similarities of form and composition between the two organizations, there is fundamental difference between them.

About the rights and powers of the big states the United Nations has adopted a totally different principle than that adopted by the League of Nations. In the Security Council of the United Nations the position of the big powers is comparatively convenient. Big wars usually result from the conflicts among the big powers. So the Charter of the United Nations hopes that war can possibly be renounced if by acting in agreement among themselves the big powers help to carry out the decisions of the Security Council. The methods and scope of the subsidiary organs of the United Nations created for the promotion of the economic and social development of the world are far wider and more precise than any under the League. The division of powers and responsibilities between the Security Council and the General Assembly of the United Nations is more just and well-grounded than that under the League of Nations. The Covenant of the League of Nations expressed its eagerness to establish peace. But by peace was meant the renunciation of war. Emphasis was also laid on open diplomacy and obedience to international law.

In the Charter of the United Nations, besides these, importance has been given to self-determination of nations and friendly international relations. Over and above these, the Charter has declared

it to be the aim of the United Nations to work for co-operation among states for the economic and social development and for the establishment of fundamental human rights. In view of this, the Economic and Social Council of the United Nations has been given the importance and prestige due to a principal organ.

The bitter experience of the League of Nations has taught the founders of the United Nations to establish a different and more effective sort of organization to ensure international peace and security. And judged from this point of view, it is quite correct to say that the United Nations is just a reproduction of the League of Nations.

6.4. Composition and Structure of the United Nations

The Charter of the United Nations contains its composition and structure. The Charter, which is, in fact, the constitution of the UN, has a Preamble and 111 Articles.

The United Nations started its journey in 1945 with 51 members, and at present it has as many as 156 members. Article 4 of the Charter states that any peace loving state is eligible for membership of the United Nations if it accepts the responsibilities and obligations of members-states as laid down in the Charter. But before the final decision is taken regarding membership of a state, the United Nations must see whether the state applying for membership is willing to accept those obligations and capable of bearing those responsibilities. To admit a state into the United Nations the decision of the General Assembly is final ; of course, the Security Council must first recommend a state's membership before the General Assembly decides on it.

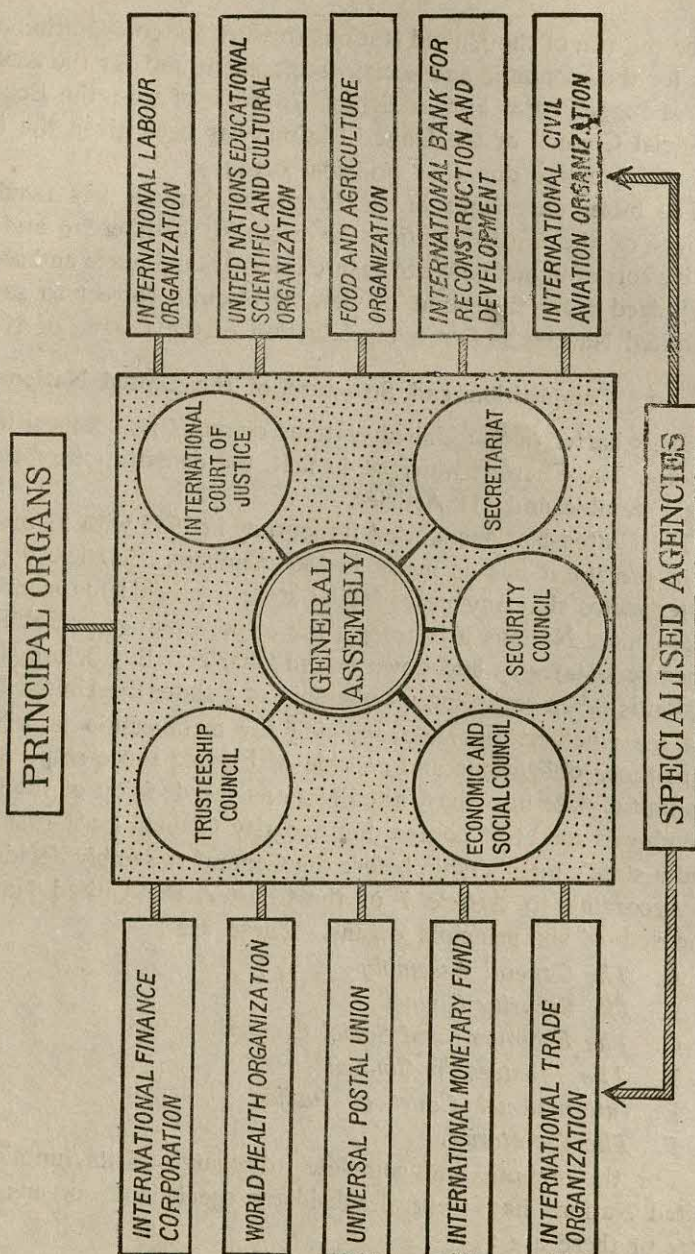
According to Article 7 of the Charter, the United Nations is composed of six principal organs. These are :

- A. *The General Assembly*
- B. *The Security Council*
- C. *The Economic and Social Council*
- D. *The Trusteeship Council*
- E. *International Court of Justice*
- F. *The Secretariat.*

For the smooth and complete discharge of its function, the United Nations has several subsidiary specialized organs as well. Some of these are :

1. International Labour Organization
2. World Health Organization
3. International Bank for Reconstruction and Development

UNITED NATIONS



4. International Monetary Fund
5. United Nations Educational, Scientific and Cultural Organization
6. Food and Agricultural Organization
7. United Nations International Children's Emergency Fund.

6.5. General Assembly

All the members of the United Nations are members of the General Assembly. Every member state can send representatives to the General Assembly the number of whom must not exceed five. Each State has one vote. The General Assembly elects a President and thirteen Vice-Presidents every year. The President of the General Assembly will not be a representative of any of the Big Powers. It also elects seven chairmen for the standing committees.

Functions

The functions of the General Assembly have elaborated in the articles 10—17 of the Charter of the UN. The General Assembly primarily initiates discussion and recommends. The General Assembly cannot discuss matters that have already been discussed or are in the process of discussion in the Security Council; of course, the General Assembly can do it if the Security Council requests it to do so. The subject which the General Assembly will discuss are marked out beforehand by the Secretary-General. The Charter of the United Nations has given the General Assembly wide powers of enquiry and discussion. It should be borne in mind that the General Assembly can discuss any matter and it can recommend on any matter, but cannot enforce compliance. Every annual session of the General Assembly starts with a general debate. Matters like the ensuring of peace are included in this debate. The General Assembly deliberates on the general principles of international peace and co-operation and the possibilities of disarmament.

The second function of this Assembly is to make recommendations for the codification and development of international law. The General Assembly has no legislative powers. Its recommendations are not necessarily binding on the members of the Assembly. And yet in its procedures the General Assembly as Nicholas has shown, closely resembles the national legislatures. This is why the General Assembly has often been called a *Quasi-Legislature*. The General Assembly

moreover can make recommendations for the realization of human rights and fundamental freedoms for all without distinction of race, sex, language or religion.

Among the functions of this Assembly, the political functions have acquired the greatest importance and the Assembly has been most successful in that sphere. True, the framers of the Charter did not wish to make the General Assembly more powerful and important an organ than the Security Council. The General Assembly was characterized by some as a *deliberative organ*, an overseeing, reviewing and criticizing organ.

Yet the General Assembly has gained a lot in importance in recent times. This is largely due to the fact that owing to the differences of opinion among the Big Powers the Security Council often becomes helpless and ineffective. Over and above this, the veto sometimes makes matters worse still. When in 1950 the General Assembly passed the *Uniting for Peace* Resolution with reference to the Korean War, an important step was taken in the Assembly's assumption of a new role. It had been the rule and practice so far that the Security Council would adopt such measures as it might think necessary whenever there would occur any danger to peace. At least this was the intention of the framers of the Charter. But the General Assembly has by appropriating this function become stronger while the Security Council has become all the more ineffective.

Another political function of the General Assembly is to attempt at peaceful and legally justified political settlement and to act for the peaceful change by promoting political orders. An instance of the discharge of this function is the Assembly's effort to work out the plan for the partition of Palestine as a result of which the independent state of Israel emerged.

The General Assembly has certain elective powers as well. Of course, it shares some of its functions with the Security Council. The General Assembly can elect the Secretary General, the judges to the International Court of Justice and admit new members on the basis of the recommendation of the Security Council. It can moreover elect the non-permanent members of the Security Council, the members of the Economic and Social Council and some members of Trusteeship Council. These members are elected by a two-thirds majority.

The members of the General Assembly, as has been noted above, have one vote each. Decisions are taken by majority vote. Some matters require a simple majority, and others require a two-thirds majority. Important questions such as maintenance of peace and security, election of the non-permanent members of the Security Council require two-thirds majority. Other matters require a simple majority.

Voting procedure

Now-a-days, there has been a perceptible change in the balance of power of the General Assembly. Formerly, in the absence of the Afro-Asian countries which were not then members of the Assembly, the supporters of the American policies were preponderant both in number and in effectiveness. So it was then possible for America to use the General Assembly according to its wishes. But in recent times many Afro-Asian and Latin American countries have gained independence and membership of the General Assembly. Because most of these new, smaller states are opposed to the American policy, the influence of America has greatly declined. This has created a new balance of power in the General Assembly. Although these newly independent countries are not invariably communist countries, yet their relation with the anti-American bloc is becoming closer indeed. This has led Mr. Moinnehan, a former American representative to the United Nations, to deplore this new balance of power as *the tyranny of majority*.

Change of balance

The framers of the Charter of the UN were not willing to make the General Assembly a powerful and effective body. They desired to make it just a platform for high sounding debates and propaganda. Accordingly, initially the General Assembly was only a recommending authority. But since the General Assembly was a representative body of the nations, it raised high hopes among nations and so it should have been clothed with wide and effective powers. But notwithstanding these limitations the General Assembly has grown in importance and power. In the opinion of Strake the role of the General Assembly in maintenance of international peace and security has been more effective than any other body of the UN. With the increase of its membership there has been an increase in its prestige.

Evaluation

6.6. Security Council

The role of Security Council in maintaining world peace and security is great. Article 23 of the Charter states that it will have

5 permanent and 6 non-permanent members. This was amended in 1965. As such the Security Council of the United Nations is now composed of 15 member states of whom 5 are permanent and 10 temporary members. The five permanent member states are the U.S.A., the U.S.S.R., the People's Republic of China, France and the U.K. It is to be remembered in this context that until 1972 America by the power of veto prevented Chinese Republic from acquiring membership of the United Nations. So long China in the United Nations meant the Chiang Kai Shek's Nationalist China.

Composition

The ten temporary members of the Security Council are elected for two years by the General Assembly. Of these 10 non-permanent members 5 will be from the Afro-Asian countries, 2 from West European countries, 2 from Latin America and 1 from East Europe. The membership of the Security Council is limited and so it is small in size. It can act quickly. Every month Presidents are chosen alphabetically from among the 15 members. Of the committees of Security Council the Disarmament Commission and the Military Committee deserve mention.

The Security Council has been planned as the only executive organ of the United Nations. And as such the primary responsibility for maintaining international peace and security is vested with the Security Council under article 24 of the Charter. The Council hears about disputes and recommends appropriate

Functions

measures the adoption of which is likely to settle those disputes peacefully. These appropriate methods are discussion, investigation, mediation, arbitration and conciliation. If these methods fail to bring the solution, the Security Council can recommend measures that are short of force, namely, economic sanctions or severance of diplomatic relations. The above mentioned methods are known as the *Pacific methods of settlement of disputes*. But if these fail also, the Council can recommend settlement of disputes by force.

Apart from these, there are certain other functions of the Security Council, such as electing new members, the Secretary General, the judges to the International Court. About these it sends its recommendations to the General Assembly. It moreover supervises the areas under the Trusteeship Council and deliberates on the issue of disarmament. The role of the Security Council in dealing with the problem of disarmament is becoming more and more important every day.

Because of the composition and voting procedure of the Security Council it is nearly impossible to declare any Big Power or its supporter as an offender. According to the Charter, no decision can be taken in the Security Council unless there is complete unanimity among the five permanent members. In other words, if any one permanent member opposes a proposal and votes against it, the proposal will fall through. This power of invalidating a proposal by casting vote against it is known as the power of *veto*.

The Veto

The power of *veto* has been the subject of great criticism and discussion ever since the inception of the United Nations. In fact, the veto power of the five permanent members has contributed a great deal to the decline of the Security Council's prestige as an executive agency. It is very unlikely, now that the world is almost sharply divided into mutually opposed camps, that Russia and America will agree on all critical policy matters. The wide difference between them of principle, ideal and point of view explains the frequent use of the veto by them. Very often the Security Council is paralysed by deadlocks owing to the exercise of the veto. And as a consequence, as we have already noticed, the power and prestige of the General Assembly has steadily increased and the organic weakness of the Security Council has become manifest, although the framers of the Charter had cherished high hopes about the latter. This has prompted Nicholas to say that *Of all the organs of the United Nations none has shown a greater discrepancy between promise and performance than the Security Council.*

Evaluation

To compensate for this failing of the Security Council several local security councils have been created under the general control of the United Nations. They will look after the local problems but will inform the Security Council of every aspect of the matter.

It is, however, heartening that since the sixties the Security Council has been showing prospects of becoming important again. In the disputes of Congo and Cyprus the Security Council brought about an effective settlement. It will not be unjust to say that in spite of the veto the structural integrity of the Security Council has made it possible for it to be more active and effective than the General Assembly and yet it is undeniable that the Security Council has failed to live upto the expectations of the framers of the UN Charter.

6.7. Economic and Social Council

The framers of the Charter of the United Nations correctly realized that international peace and security depended largely on the economic and social progress and development of the nations of the world. So the Economic and Social Council has been formed as a principal organ of the United Nations with a view to raising the economic, social, educational standards—and on the whole, the leaving standard—of as many countries as possible.

Composition

The council was originally composed of 18 members. In 1966 the numbers was increased from 17 to 27. In 1973 the number was doubled. So now the Council is composed of 54 members, one-third of whom are elected every year by the General Assembly for three years.

The Economic and Social Council can make recommendations on any economic or social matters or any other matters relating to them. It can send its recommendations to the General Assembly or to the member states or to any of the specialized organs. It can convene conferences on such matters. It can moreover take upon itself the responsibility of performing tasks on the requests of members subject to the permission of the General Assembly.

The functions of the Economic and Social Council are rather complicated. It is a medium of co-operation between the specialized organs and the General Assembly. Its chief functions are performed through committees and specialized organs. There are seven commissions through which its functions are performed. Some of these are Statistical Commission, Population Commission, Social Commission, Human Rights Commission and Minority Commission. Apart from these there are the Economic Commission of Europe (ECE), Economic Commission of Asia and Far East (ECAFE), Economic Commission of Latin America (ECLA) and Economic Commission of Africa (ECA). These regional Commissions have been working well and successfully. Over the years the Economic and Social Council has proved a highly effective organ of the United Nations. It has provided great assistance in eradicating diseases and improving public health services. The UNESCO, the FAO, the UNICEF, the IMF and the WHO are among the very important organs which have been organized and administered by the Economic and Social Council.

6.8. Trusteeship Council

The Trusteeship Council was formed in the interest of the people of the territories under the United Nations and of the Trust territories. This organ supervises the trusteeship system as established by the Charter of the United Nations. This Council is primarily responsible for the peace and security of the trusted territories in particular and of the world in general. About 800 million people lived under the colonial and imperialist systems throughout the world before World war II. And about 600 million people were liberated from colonial imperial rule after World war II, but a great number of people are still without the right of self-determination. The Trusteeship Council was created to help these people to earn their independence.

The Trusteeship council is modelled after the League Mandates System. But it is much more elaborate, broad based and powerful than the Mandates System. The Charter of the UN envisages several functions for the Trusteeship Council, namely, (i) considering reports submitted by the administering states, (ii) considering petitions from people living in trust territories, (iii) preparing annual reports about progress made. The general functions are preparing trust territories for independence, maintaining and providing for internal peace and security. The Trusteeship Council began its operation in 1946 and has so far worked competently in spite of persistent resistance by colonial imperial powers.

6.9. International Court of Justice

The International Court of Justice is the principal judicial organ of the United Nations. It has been instituted for the interpretation and adjudication of international law and rights and other related matters. It is a modified form of the League's Permanent Court of International Justice.

The International Court of Justice (ICJ) is composed of 16 judges who are appointed for 9 years by the General Assembly on the recommendations of the Security Council. To be considered for appointment a judge must have an unassailable character, the eligibility for appointment to the highest national court, or must have an international reputation as a jurist. No two judges shall be appointed from the same country.

Any member-state can bring its dispute with any other member-state to the ICJ for solution. Of course, the ICJ will hear disputes

only if the disputants agree in accepting the Court's jurisdiction. Many states signed the *Optional Clause* whereby they agreed to recognize the jurisdiction of the Court in their disputes regarding treaties and international law. But owing to certain obvious limitations the ICJ lacks the supreme International Court. As Morgenthau says, *The International Court of Justice is in no sense a Supreme Court of the world which may decide, with final authority, appeals from the decisions of other international tribunals.*

The ICJ has so far decided many cases. Of them the case regarding the nationalization of the Anglo-Iranian Oil Company, the dispute of American nationals with the citizens of Morocco, the dispute between Portugal and India are worth mentioning. It may also be noted in this connection that some time ago Bangladesh threatened to take to the ICJ the dispute regarding the distribution of the water of the Ganges.

Some think that the decisions of the international Court is likely to be influenced by international politics. As Nicholas says, *if it gets too much involved in what are essentially political quarrels the Court might run the risk of appearing merely as the guardian instrument of the General Assembly.*

6.10. Secretariat

Article 97 of the UN Charter states that the Secretariat shall be composed of a *Secretary-General and such staff as the organization may require.* The staff will be collected from different countries of the world. But this staff will not seek or receive instructions from any authority external to the organization. The staff of the Secretariat are formally appointed by the Secretary-General.

The Secretariat discharges various duties and functions. Among its various types of functions are the supplying of data for the use of its members, publication of the various resolutions and debates in the UN journal, dissemination of news through the public relations department, and conduct of scientific and other research. The annual budget of the UN is placed by the Secretariat before the General Assembly through the Secretary-General. There are certain departments in the Secretariat which were created for smooth and effective work. These are the political department, economic department, social department, and the trusteeship department. With the increase in

the volume of work, and the corresponding increase in importance, the expenditure for running the Secretariat has also increased greatly. The expenditure was 19.3 million dollars in 1946. In 1968 it rose to 140.4 million dollars.

The Secretary-General

The Secretary-General is the head of the Secretariat, the pivot, so to say. Article 97 states that the General Assembly will choose the Secretary General on the recommendations of the Security Council. The Secretary-General is the administrative head of the whole organization. Only such persons will be named for Secretary-Generalship as will be supported by all five permanent members of the Security-Council. Trygve Lie of Norway was the first Secretary General. Dag Hammerskjöld was the second, U. Thant was the third and Kurt Waldheim was the fourth. The present Secretary-General is *Mr. Javier Perez de Cuellar*.

The position of the Secretary-General is of great importance in the administration of the UN. The general administration of the whole organization has been entrusted to him.

His functions

In financial matters he acts as the spokesman of the UN. It is he who discharges the financial responsibilities. The whole array of representative functions too are entrusted to him. He prepares the agenda of the General Assembly, convenes its emergent meetings, submits its proceedings, participates in its debates and prepares the draft resolutions of the Assembly.

Political functions are the Secretary-General's chief responsibilities. The Secretary-General makes great efforts to ensure peace. He sees to it that force is not resorted to in international relations and that the hopes expressed in the Charter are translated into reality.

Other functions

In fact, the justification of the Secretary-General's post largely depends on his success in discharging political functions. Article 99 states that the Secretary-General can draw the notice of the Security Council to any fact or incident that might endanger world peace and security.

It has been seen that in the Korean war, in the Congo crisis, the Israel-Egypt war and the Vietnam War, the respective Secretary-Generals did everything in their power to ease the crises. In some cases they succeeded, in others they did not quite succeed. Of course, many people think that in some cases the Secretary-General did not make sincere efforts. According to some, Dag Hammerskjöld's role in the Congo crisis was not at all praiseworthy. It

cannot be doubted that the post of the Secretary-General has become highly important. But much depends on the personality, thrust, impartiality, and far-sight of the person who holds the post.

6.11. Achievements and Failures of the UN. : An Evaluation

The principal aim of the United Nations is, as we have seen, the maintenance of international peace and security. It aims at settling disputes amicably and at establishing and extending the mentality of peace and peaceful co-existence. But whether the United Nations has been able to do that is a hotly debated question. Some critics regard the United Nations as the arch guardian of international peace, while some others deplore its failure. It cannot be denied that initially the United Nations disappointed its protagonists but gradually it was able to inspire confidence.

To fulfil the aims and ideals, for which the United Nations was created, it needs broad programmes, bold decisions, dependable and unflinching leadership and unquestionable impartiality. Unfortunately, the United Nations has not yet been successful in this role. There are three major blocs in the United Nations. These are, firstly, the capitalist countries led by America ; secondly, the socialist countries led by Russia and thirdly, the neutral countries led by India, Yugoslavia, etc. Apart from these, communist China with some of its adherents are maintaining a separate existence. For some time the United Nations showed clear partiality towards the Western capitalist camp. As a result, it failed in some cases to bring about just and satisfactory settlement.

But in recent times the Western camp is not, owing to disagreements and differences, as united as before. America, in particular, has shown unmistakable reluctance in supporting Britain and France on some important international issues. Moreover, as a result of the admission of a large number of newly independent states into the United Nations, there has been a shift in the balance of power. The UN started its journey with only 50 states and now it has 156 members. It may be said that the UN has gained universality. It is, in the circumstances, no longer possible for it to act under the influence of any particular bloc.

The UN in Action

It will now be worthwhile to concentrate on certain international disputes and see what role the United Nations played in settling them.

In 1946 Iran brought an allegation in the United Nations against Soviet Russia. Under a treaty, Russia, Britain and America had their troops posted in Iran during World War II. Iran opposed Russian interference in Iranian affairs and demanded the withdrawal of Russian troops, Russia, however, ordered withdrawal of troops, though belatedly.

Iran's allegation
Ukraine's allegation
Here the UN failed to bring about a satisfactory settlement and only hushed the matter up.

In that year, again, Syria and Lebanon brought to the notice of the United Nations the presence in these countries of British and French armed forces. The United Nations, however, did no more than merely get an assurance from Britain and France that they were willing to withdraw their troops.

About the same time India alleged that the South African government was ill-treating the Indians of South Africa. But the UN ruled out discussion on the plea that it was an internal affair of South Africa. Later on, many allegations came to the UN of the South African government's policy of Apartheid (a policy of racial discrimination) and of partiality towards the white people there. The UN passed resolutions against this Apartheid, but failed to give them effect.

India brought to the UN time and again the problem created in Kashmir by the illegal raids into Kashmir by Pakistanis and the forcible occupation of about one-third of Kashmir by them. But no step has as yet been taken to make the Pakistanis evacuate the occupied area. Moreover, the UN, instigated by America, tried to settle the matter by a plebiscite in Kashmir. Here the UN had no scruple in interfering in the internal affairs of India. Fortunately, however, Soviet Russia punctured this evil plan by using the veto.

The UN stationed American troops in South Korea on the plea that it was invaded by North Korea. As a result America under the cover of the UN started a terrible war in Korea. It is amazing that the UN instead of preventing American interference in Korea only helped it and thus helped the organization of a long drawn and bloody war.

Congo won its independence in 1960. But when the Belgian

Government sent troops to Congo, the latter brought it to the notice of the UN. A very unsettled political situation was created in Congo. The Prime Minister Patric Lumumba was assassinated. The Soviet Union alleged that the UN merely acted as directed by the American bloc.

The UN completely failed to stop the carnage that was started by America in Vietnam in order to destroy the Vietnamese people. The UN role of a silent onlooker in the Vietnam crisis is surely the most glaring of its failures. This unfortunate failure of the UN to play its role in Vietnam had raised in men's minds grave doubts about the justification for its continuance.

The history of UN is not one of unmixed success or failure. So it cannot be said to have been either fully successful or a total failure. In the maintenance of international peace and security it has been successful in some places but has failed in others. But its role in creating international understanding and co-operation has been really praiseworthy. Particularly, it has acted as a forum for discussion and understanding among the quarrelling nations. Of course, its role is greater in social and economic spheres than in maintaining international peace and security.

6.12. Future of the United Nations

We thus see that the record of the UN is not one of complete success. It is to be appreciated that at the time of its foundation there was general support and co-operation, although the picture of its future success held out by its promoters was overdrawn. So disillusionment came all too soon and came frequently. Of course, if we look at the contemporary state system and power position and judge the UN efforts in that light, we cannot say that they were completely fruitless.

Moreover, it should be borne in mind that 1985 is incomparably different from 1946. The anti-imperialist camp in the UN is much stronger today owing to the support of the newly-independent countries. On the other hand, the forces of peace are much stronger and better organized today than before. So it may not be idle to think that with all its weakness the UN will not fail miserably as the League of Nations did.

The different progressive and welfare activities of the United Nations prove its necessity. Of the total expenditure of the UN about 85 percent is on welfare work and in this sphere its efforts have proved to be highly successful and heartening.

U Thant, a former Secretary-General of the UN said that the UN is well nigh universal in membership and more effective and powerful than the League. In fact, the inclusion of the People's Republic of China, the most populous country in the world has made the UN a universal organization. Moreover, nearly all of the world's independent countries are now members of the UN. The UN which started its journey with a mere 50 states now have 156 members.

The UN exists very much as an organization of the sovereign states. Indeed it has, as Walter Lippmann says, become an *indispensable institution*. Through experience we have realized it well that the ideal international organization that will make for lasting world peace is not possible owing to the absence of adequate political atmosphere and mental preparation. So the present national and international situation is responsible for most of the failures of the United Nations. Some critics find fault with the veto. But the Great Powers made the veto a condition for their entry into the UN at the San Francisco Conference in the teeth of stiff opposition by the other powers. This means that the UN could not have come into existence had not the veto been conceded.

The indispensability of the United Nations is further proved by the unhesitating support of it by the newly-born states. Calvo-coressi considers this support a treasure of the UN and its mainstay. These states have, through innumerable local neutral conferences, expressed their peaceful disposition and have brought forward their own proposals for maintaining peace. It is recognized that in view of the way in which countries like America and Russia are arming themselves with nuclear and inter-continental missiles, any local battle may get transformed into a global war. In the circumstances, it is suicidal to do away with the United Nations.¹ Considered in this light, the United Nations must continue to exist, for its death will mean the premature end of man's hopes and aspirations and prospects of living in a world free from war and conflict.

1. "It is the survival or suicide of man.....the choice is either extinction or human brotherhood"—Dr. S. Radhakrishnan,

Questions

1. Discuss the reasons for the origin of the United Nations. (6.1)
2. Discuss the purposes and principles of the United Nations. (6.2) [H. S. C. '79]
3. Discuss the objectives and principles of the United Nations. Has it failed in its purposes? (6.2 and 6.11) [H. S. C. '81]
4. Compare the League of Nations with the U. N. (6.3)
5. Discuss the structure of the U. N. and write notes on its principal organs. (6.4)
6. What are the principal organs of U. N. ? Describe the composition and functions of any one of them. (6.4 and 6.5) [H. S. C. '79 '84]
7. Discuss the functions of United Nations. (6.2)
8. Evaluate the achievements and failure of the United Nations. (4.11) [H. S. C. '78]
9. Discuss the composition and functions of the Security Council. (6.6)
10. What is 'Veto'? Right a note on 'Veto'. (6.6)
11. Discuss the composition and the functions of the Security Council of the United Nations. Briefly evaluate the role of the Security Council (6.6) [H. S. C. '82]
12. Discuss the composition and functions of the General Assembly. Evaluate the role of the General Assembly. (6.5) [H. S. C. '80, '83 and T. S. B. '79]
13. Write a note on the future of the United Nations. (4.12) [H. S. C. '79]
14. Examine the composition and functions of the Economic and Social Council. (6.7)
15. Write a Note on the Trusteeship Council. (6.8) [H. S. C. '80]
16. Examine the composition and functions of the International Court of Justice. (6.9)
17. How is the Secretariat composed ? What are its functions ? (6.10)
18. Examine the position and functions of the Secretary-General. (6.11)
19. Evaluate the achievements and failures of the U. N. (6.11 and 6.12) [H. S. C. '84]
20. Discuss the purposes and principles of the United Nations. What are its principal organs? (6.2 and 6.4) [H. S. C. '85]

Objective-type Questions

1. Tick the correct answers :
 - (a) The UNO was formed in (1919, 1941, 1947, 1945). [H. S. C. '82]
 - (b) Each state sends a maximum number of (2, 5, 7) members to the General Assembly.
 - (c) Important matters are decided in the General Assembly by (one-thirds *two-thirds*, three-fourths) majority.
 - (d) The total number of members in the Security Council is, (5, 11, 15) [H. S. C. '78]
 - (e) There is/are (1, 5, 11) permanent members in the Security Council.

- (f) The principal organs of the UNO are (2, 4, 6) in number.
- (g) The number of temporary member of the Security Council is (5, 10, 15)
[H. S. C. '78]
- (h) The International Court of Justice has (9, 11, 15) judges.
- (i) (All members, only temporary members, *only permanent members*) for the Security Council have the right to exercise 'veto'. [H. S. C. '80]
- (j) At present the total membership of the Economic and Social Council is (15, 27, 54). [H. S. C. '81]
- (k) The International Court of Justice (*is, is not*) an organ of the United Nations. [H. S. C. '84]
- (l) The Trusteeship Council (*is, is not*) a part of the U.N.O. [H. S. C. '83]
- (m) In the Security Council of the U.N. (all member-states, *only the non-permanent member-states, only the permanent member-states*) enjoy the Veto power. [H. S. C. '85]
2. (a) Which states can exercise 'Veto' in the Security Council?
- (b) What is the name of the constitution of the UNO?
- (c) What is the number of judges to the International Court of Justice?
- (d) By whom and for what term are the judges of the International Court appointed?
- (e) Who is the chief of the Secretariat?
-



"Rights, in fact, are those conditions of social life, without which no man can seek, in general, to be himself at his best."

—H. Laski

CHAPTER SEVEN

Citizenship, Rights and Duties

7.1. Who is a Citizen ?

The etymological meaning of *citizen* is the person who dwells in a city. Ancient Greece had city-states i.e., small states which developed round cities. The word *citizen* is derived from *city*. The Greek philosopher, Aristotle puts stress on the active part of citizens in politics. He who takes part in the function of the political institutions and the judiciary is a citizen.¹

The Greek city-states have, in the course of evolution, turned into the modern large-scale nation states. Spheres of activity of the modern states have also expanded greatly along with their size.

In modern political science the term *citizen* has, therefore, a wider connotation. A member of the state is now called a citizen. A person who, having allegiance to the state, enjoys all rights is considered a member of the state. In Aristotle's time, women and toilers were not citizens because they were dependent on others. Hence they were deprived of the right to participate in the affairs of the state. But, today, any inhabitant may be a citizen, if he shows allegiance.

1. "He who has the power to take part in the deliberative or judicial administration is said by us to be a citizen of that state".—Aristotle.

What this allegiance really means? It means respect for the principal ideals of the state and readiness to defend the state against danger. A citizen enjoys certain social and political rights allowed by the state. He has certain duties as well to perform. But to enjoy rights and to perform duties a citizen is required to cultivate and develop certain mental and moral qualities. In the words of Professor Laski, *the contribution of one's instructed judgement to the public good* is what known as citizenship. Hence, in a broad sense, the citizen is a person who lives in the territory of a state, render obedience to it, enjoys fully the civic and political benefits, and contributes intelligently to the increase of social wealth.

The inhabitants of a country may be divided into citizens and aliens. Aliens are the permanent residents of some other country. They hold their allegiance to that country. Many Englishmen, Germans and Japanese live in India as aliens. Citizens and aliens They obey the laws of the land, and pay taxes. Yet, they are not Indian citizens. The aliens enjoy certain civic rights only. They do not enjoy any political rights. They are not entitled to vote and to be voted. They cannot demand appointment to public services. Even, they do not have the privilege of living here permanently.

There is also difference between citizens and nationals. Indian citizens and Indian nationals do not mean the same things. An Indian, who enjoys the right to vote and other political rights and has the rights to join public services, is a citizen of the state. Children, adolescent and others, who live in this country, enjoy civic rights but have no political rights are Indian nationals, but not citizens. Citizens and nationals

There is also difference between citizens and subjects. People living in British colonies are British subjects. Citizens and subjects An Australian citizen is, for example, British subject. But only those who are entitled to civic and political rights given by the British Government are the citizens of Britain.

7.2. Modes of Acquiring Citizenship

Citizenship is acquired either (i) by birth or (ii) by naturalization. Citizenship by birth is decided by any of the two principles : by virtue of blood or *jus sanguinis* and by virtue of birth place or *jus*

solī. In accordance with the principle of *jus sanguinis* the citizenship of a person follows that of his parents regardless of the place of birth. For example, an offspring of Indian citizens will be Indian citizens wherever they are born. According to the principle of *jus soli*, if an offspring of Indian citizen is born in the United States, he will become a citizen of that state. That is, the citizenship is determined by the place of birth. Some countries follow a combination of both the principles. The constitution of India also has adopted both of them. Thus a child born to an alien in the territory of India and a child born to Indian parents outside its territory, will equally have claim to Indian citizenship.

Of the two principles, the principle of *jus sanguinis* appears more reasonable, because the birth place is often uncertain and cannot be predetermined. Logically, the Indian claim should be greater on a child born to an Indian citizen travelling in England.

In fact, the principle of birth place or *jus soli* gives rise to problems. If a child is born to Indian parents residing in the United States, according to the principle of *jus sanguinis* he is an Indian national, while according to *jus soli*, in vogue in the U.S.A., he is a national of that country. Consequently, the problem of *double nationality* arises. It is not possible for one and the same person to be the citizens of two states at the same time. In such circumstances, the principle followed is to leave it to the child to decide his or her citizenship on attaining adulthood. Normally, a woman being married gains the citizenship of the state to which her husband belongs.

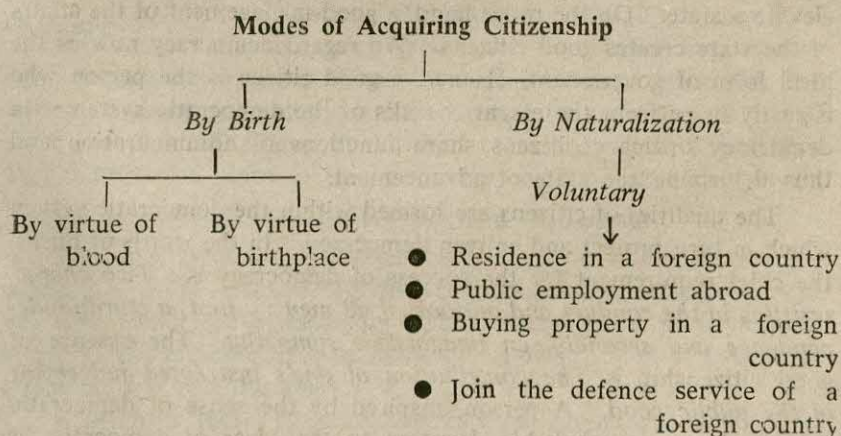
Certain conditions require to be fulfilled for gaining voluntary citizenship. The process is known as *naturalization*. There are provisions, in every country, for admission of aliens to citizenship by formal grant or naturalization. The following conditions are generally attached to it. An alien seeking citizenship is required to (i) establish a legal residence for a certain period of time, or (ii) secure public employment, or (iii) buy properties, or (iv) join the defence services, or (v) learn the language of the land, or marry a foreign national (in such a case, a woman can apply for the citizenship of her foreign husband).

Conditions differ from country to country. In some countries fulfilment of any two conditions is enough; while in some others fulfilment

of a number of them is necessary. When the conditions are fulfilled, it is upto the state concerned to decide on the grant of citizenship. Generally, the alien is required to submit a formal petition ; the state scrutinize the same, and if statisfied, confers the citizenship on him.

Citizenship by naturalization may be complete or partial. When a naturalized citizen is entitled to enjoy all rights and benefits given by the state, the naturalization is said to be complete. All benefits are extended to the naturalized citizens of England. But some states, like the United States, discriminate between a naturalized and an ordinary citizen. A naturalized citizen, for example, cannot be the President of the USA. It is believed that only a citizen by birth may have the patriotism and character required of a President. It is an example of partial naturalization.

The following diagram will make the modes of acquiring citizenship easier.



7.3. Causes of the Loss of Citizenship

A person may lose his citizenship for several reasons. For example, loss of citizenship occurs when :

- (a) a person takes the citizenship of another state ;
- (b) a woman is married to an alien ;
- (c) a person gets public appointment in another country ;
- (d) a person receives title or honour of another state (an Indian citizen, for example, is not allowed to receive such honour) ;
- (e) a soldier deserts his post and joins the enemy camp during war ;
- (f) a person is convicted at the court of law for a serious offence ;

- (g) a person lives outside for a considerably long period ;
- (h) a person joins the defence services of a foreign country.

The voluntary surrender is one important cause of the loss of citizenship. About it there are various laws in vogue in different countries. Some states accept voluntary surrender of citizenship subject to certain conditions. In the past, most of the countries did not allow their citizens to surrender citizenship. With the spread of democratic principles, however, the states have now largely removed such restrictions.

7.4. Qualities of a Good Citizen

Many years ago, Voltaire had once remarked that *A people will get the kind of government it deserves*. The theory of citizenship cannot be separated from the theory of state : good citizen and good state are two aspects of the same thing. The good qualities of citizens elevate a state. On the other hand, a good management of the affairs of the state creates good citizens. We regard democracy now as the ideal form of government. Hence, a good citizen is the person who is ready to perform the essential tasks of the democratic system. In democracy ordinary citizens share functions of administration and thus determine the state of advancement.

The qualities of citizens are formed within the democratic system which in turn protect and enliven democracy. In the words of Burns, the chief requirement for the success of democracy is : *Two characteristics in the conduct and outlook of all men : first, a sturdy independence and secondly, an imaginative sympathy*. The essence of good citizenship is *The contribution of one's instructed judgement of the public good*. A person, inspired by the sense of democratic values, showing unshakable devotion to the ideas of democracy, is likely to become a good citizen.

The celebrated political scientist, Lord Bryce has mentioned three qualities of good citizenship—intelligence, self-control and conscience.

A good citizen should be intelligent and educated. He should be conscious enough to understand what form of administration may be beneficial to the common people. He should be prudent enough to distinguish the right from the wrong. Proper education for every citizen is necessary for political, economic and social progress. By proper education we mean the enhancement of the capability of comprehending a part in the

Intelligence

context of the whole, and of understanding any topical problem in the perspective of stability.

A good citizen should have self-control. Moreover, he should have a mind to sacrifice self-interest for the greater interest of the society. A citizen has to give up even his own comforts for the welfare of the nation. In the event of a disagreement between his own opinion and that of the majority, he is required to exert self-control to accept the majority view. It is necessary to abide by the law, even if it goes against the narrow individual interest. In order to be a good citizen one has to restrain excitement, emotion and excessive selfishness.

Self-control

Finally, a good citizen must be conscientious. He is to perform every task sincerely and honestly. It is the duty of the good citizen to exercise voting right honestly, pay taxes to the government and help to punish law-breakers. A good citizen should always remain conscious of his duties. His ideals should be to render service to the country even at the cost of individual interest. Those who forego these principles for money or power are not good citizens even if they have many other good qualities. C.D. Burns thinks that to these conditions two more should be added—love for one's country and an independent spirit.

7.5. Hindrances to Good Citizenship

The superior quality of citizens uplifts a state ; their poor quality degrades it. The realization of the ideals of good citizenship is, however, not frequent. In most cases the citizens fail to perform tasks owing to the pressure of circumstances. Poverty, lack of education, etc., are a few real obstacles.

Apart from these, there are certain other hindrances. Lord Bryce mentions three of them. They are indolence, self-interest and party-spirit. Indeed, an idle, selfish and factious person can never be a good citizen.

Indifference or apathy to public service is a vice. Success in any work needs the co-operative effort of all. Often we notice in our country that nobody bothers about public work. There is a notion that any work, without personal gains, is useless. Undoubtedly, such an attitude is a hindrance to good citizenship. Every citizen, on the other hand, should be inspired by the motto : *All of us are meant for all ; everyone is meant for others.* Many of us simply avoid doing anything for others. Everyone thinks that some one else would do it. Conse-

quently, public works suffer. Idleness creeps into our thought and action. Our indifference slackens the administration. There is a saying : *Eternal vigilance is the price of liberty*. Constant surveillance is necessary for the protection of political and civic liberty. Indifferent and callous citizens are hence responsible for the rise of dictatorship. Persons apathetic to politics therefore do not make good citizens.

Selfishness is a hindrance to good citizenship. Personal interests have to be sacrificed in the greater interest of the society. Some indications of selfishness are : election of unsuitable representatives simply for money, buying and selling of votes, unprincipled change of parties on the part of legislators in order to get a berth in the ministry or for money, appointment of inefficient relatives to public posts, etc. These are anti-social deeds. A citizen should not do such things for money, popularity, or for any prestigious position. Democracy cannot survive for long if the industrialists are governed only by profit-motive ; if government employees are susceptible to corruption and bribery and if the ruling party is interested in furthering only the interest of the party. These persons are totally unsuitable for good citizenship.

Party spirit is another hindrance to good citizenship. In the age of democracy political parties exist in every country. In fact, it is essential in a parliamentary form of government. Service of motherland should be the ideal of a political party. Evil is produced when the parties forget that ideal and get occupied with narrow party interest rather than that of the country. A citizen who magnifies the party interest, and thus causes harm to the state, is quite unfit for good citizenship. Blind allegiance to party makes a man illiberal and irrational. Conflict between the members of different parties often brings injury to the nations. Untruthfulness, immorality and greed are obvious results. In such circumstances, the political condition of the country becomes, in the words of MacIver, *The jockeying of organized groups for relative advantage*. This is by no means conducive to good citizenship. In spite of all the differences, the only ideal of the members, of all parties should be to get above narrow interest and serve the country whole-heartedly.

There are many other hindrances. Defective election-procedure,

poverty and ignorance, corrupted vehicles of public opinion, large size of the country, over population, etc. are some examples. But, perhaps, Others at present, one most important hindrance is the presence of a large number of unemployed persons caused, in the main, by the absence of planning in capitalist economies. Individual persons, in these countries, feel helpless before the vast economic inequality and chaos in production. They are then gradually alienated from the society. Loss of identity with the society turns them into dejected, hopeless men.

7.6. Measures for the Removal of the Hindrances to Good Citizenship

Success of a democracy depends largely upon the character and quality of its citizens. The political scientists have, therefore, given much thought to the ways of removing the hindrances to good citizenship. Since the citizen's general apathy to public work is the main hindrance, most of the suggested remedies aim at raising their social consciousness.

Lord Bryce has prescribed two types of remedies—the administrative remedies and moral remedies. The former imply certain changes in the structure and method of work of the administration; the latter indicate measures for improving the quality of citizenship.

A. Administrative Remedies

These consist of a few careful and deliberate changes in the administrative machinery. Some are as follows: In the first place, Lord Bryce suggests the introduction of proportional representation. It will, according to him, enable all sections of the population to send their representatives to the legislature, creating much enthusiasm. In the second place, Bryce recommends legal compulsion in the exercise of voting right to remove the callousness of the citizens. Such compulsion is in vogue in Belgium, Switzerland and a few other countries. In the third place, certain direct democratic measures—such as, *Referendum*, *Initiative* and *Recall*—may also be introduced.

Availability of these instruments, as has been mentioned earlier, increases the vigilance of the citizens by enabling them to take active interest in the affairs of the state. In the fourth place, the number of local-self governments—Panchayet, Municipality, etc.—are to be increased. These are to be given more powers and freedom. The

local-self governments are helpful in educating the citizens. Finally, in addition to the above, suitable legislation preventing anti-social activities, like corruption, bribery, etc. are to be enacted.

B. Moral Remedies

Stringent election laws and provisions of severe punishment for corrupt practices are also important remedies. However, a voter's disinterestedness cannot possibly be removed by legal compulsion alone; he is to be inspired with political consciousness and the sense of responsibility. Superior mental faculties make one a good citizen. That is, in other words, a good citizen is a person who has unyielding zeal, social consciousness, and healthy, refined feelings.

John Stuart Mill has aptly pointed out that a human society, believing in democracy as the best form of government, may not be fit for it (i) if the citizens are not sufficiently eager to work for its preservation, owing to disinterestedness, carelessness, cowardice, or absence of initiative in public duties; or (ii) if they, allured by the illusions of personal gains, fail to remain alert against possible dangers to the government; or (iii) if they destroy the democratic institutions themselves. According to Mill, such a people should be given a chance of having a democratic government, if necessary for a while, even though it is certain that they will not be able to enjoy it for long.

On the whole, the expansion of mass education is the best remedy for hindrances to the good citizenship. Education should be such as induces courage, honesty, tolerance, self-denial, and habits of adjustment among the citizens. Good education broadens one's outlook and inculcates in him patriotism and social consciousness. It may also inspire the citizens with the desire to serve the society; indeed good education does it by rousing the people to give up parochial and communal narrowness. Real education always turns a citizen into a dutiful and self-sacrificing patriot. This is why Plato, the Greek philosopher, thought it necessary to include education as a must in his scheme of the ideal state. Along with general education, political education should also be imparted as it makes the citizens conscious of the origin and method of operation of anti-democratic forces.

Besides the aforeasid remedies, introduction of economic planning

is also considered necessary. Planning is needed for doing away with poverty, famine, and economic inequality. It helps to foster among the citizens the sense of justice and stability. When national economic plans are formulated through discussions and deliberations carried right from the lowest level, the people are naturally enthused. Identification of the interests of individual with that of society, achieved in this way, helps to make good citizens.

7.7. Citizenship under the Constitution of India

In the United States of America and the U.S.S.R., two of the world's largest federations, the individual has a double citizenship namely, the citizenship of the unit or federated state to which he belongs and the citizenship of the Federal Union. But the citizenship of India allows only one citizenship. An Indian has uni-citizenship, i.e., citizenship of the Indian Union and not of the federated state to which he belongs. We are citizens not of Bihar or West-Bengal, but of India. An Indian citizen may be a permanent domicile of a particular State but that does not earn him the citizenship of that State.

The constitution of India stated a few categories of people who could be allowed Indian citizenship. Citizenship would be granted to a person satisfying any one of the following conditions: 1. a person born and domiciled in the territory of India; 2. a person domiciled in India either of whose parents was born in India; 3. a person who or whose father was not born in India but who has domiciled in India and has been residing in India for not less than 5 years immediately preceding the commencement of the constitution; 4. a person who had migrated from Pakistan, provided he or either of his parents or grandparents was born in India as defined by the Government of India Act of 1935; 5. a person who had migrated before July 19, 1948; 6. a person who had migrated on or after July 19, 1948.

It was also stated that a person who migrated from India to Pakistan after 1st March 1947 would lose his Indian citizenship but if he had subsequently returned to India under a permit issued by the Government of India he would get himself registered as a citizen of India.

The constitution of India contained no more details about citizenship. It asked the Parliament to frame necessary statutes about it. Accordingly in 1955, the Parliament introduced a statute for the

citizenship of Indians. According to this statute citizenship of India can be acquired in five ways :—1. birth : those who were born in India after 26th January 1950 will be Indian citizens ; 2. descent :

Citizenship under Act of Parliament, 1955 children born outside India of parents who are Indian citizens by birth will be Indian citizens;

3. registration : those who ordinarily reside in India will be Indian citizens if they have lived here for six months preceding their applications for registration ; 4. naturalization : (a) foreign women married to Indian citizens may acquire Indian citizenship by registration ; (b) if foreigners apply for citizenship and if the government thinks it advisable, they may be allowed Indian citizenship ; 5. incorporation of territory : if any new territory is incorporated into that of India, then the government of India will decide which categories of people of the newly acquired territory will be accorded citizenship. People of Pondicherry, Chandernagore, Goa, Daman, Diu and Sikim acquired Indian citizenship under this clause.

Before allowing citizenship to a foreigner certain points are considered seriously. In the first place, whether Indians are allowed citizenship of the State to which this foreigner belongs ; secondly, whether he (this foreigner) has already forsaken his former citizenship ; thirdly, whether he has lived for twelve months continually in India before he applies for registration or whether he has been doing any job under the government of India ; fourthly, whether he has lived here for atleast four out of seven years continually preceding those twelve months ; fifthly, whether he is of good moral character and whether he knows any of the 14 principal Indian languages ; and finally, whether he has any desire of living in India permanently.

In the Parliamentary statute of 1955 several reasons are stated for the loss of citizenship. In general there are three possible ways of losing Indian citizenship, (i) one can lose citizenship by simply forsaking Indian citizenship. If a person has citizenship of India and another country simultaneously, he will have then to renounce one, otherwise his Indian citizenship will be lost ; (ii) one can lose it if he accepts the citizenship of another country ; (iii) a person can lose it if the government of India considers that he has become an Indian citizen by forgery or that he has no allegiance to the constitution of India.

7.8. Rights : Definition and Nature

Collectively, man founds society. According to Aristotle the

purpose of the society is to create the condition for good life. To realize this end citizens are to be given ample scope for the development of their personalities ; that is, they should be given chance of unhindered development of their aptitudes, talents and proficiency. A particular person may have unusual proficiency in games, while another has it in painting or music or acting—each of them requires the opportunity for the fullest development of these qualities. Good life is the life that extends these opportunities. Hence, good life is

unrealisable without the fulfilment of certain minimum requirements. Freedom of speech and association is, for instance, one such requirement—and, indeed, a very important one. Together, these constitute rights. To quote Laski : *Rights, in fact, are those conditions of social life, without which no man can seek, in general, to be himself at his best.* Precisely, those conditions, when recognized and protected by the state, become rights.¹

The society and the state recognize some privileges of men and these then become *Rights*. The society and the state determine the limits, and the conditions for enjoying them. It is the society and the state that safeguard the rights. Thus in a word the society and the state create and safeguard rights.

Rights and duties are intimately linked. A citizen has the right to express his feelings. This means that other citizens should not stand in the way of enjoyment of the former's rights. Thus while we will enjoy our rights we have certain duties too towards the society and the state.

Rights originate in the necessities of man's social existence. A man is not permitted to kill another because killing one another brings about chaos and lawlessness. Rights cannot exist in the absence of these basic rules of social life. Every citizen has certain moral responsibilities towards others. He must see that other citizens also enjoy the rights, as he himself does. Moreover, the rights should be so used that it helps to increase the wealth and wisdom of the society. In the words of Hobhouse, each right is a condition of social welfare.

1. Barker has pointed it out beautifully : "The sum of rights is my whole capacity, my whole status and whole power of action—within state and its law : it is my general and total personal or legal personality : it is my general position in the system of rights (in so far as that system is recognized by the state) and the whole of my share in the system."

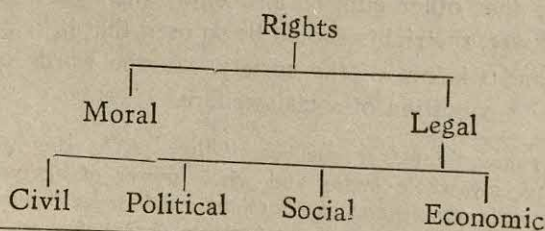
—*Principles of Social and Political Theory.*

Social welfare does not mean anything constant or fixed for ever. The very concept of welfare changes with time. Thus, when industry first began to expand, the right to personal property was considered sacred, and everyone enjoyed it through acquiring properties by any means. But, today, the exposition of the drawbacks of the capitalist system has made us all eager to restrict that right, which, in fact, has induced many states to curb it. No list of everlasting and unchanging rights, therefore can be drawn.

Only a democratic state, founded upon the principles of liberty and equality, may confer rights on its citizens.¹ Demand for protection of rights is not possible without liberty. The citizens in a democracy, may have rights because the very system of election by the people makes democratic governments depend on public opinion. Independence of judiciary in democratic states also helps to protect rights. They are not equally protected in a society based on economic, political and social inequality. In such a society, state extends additional benefits to the powerful class; and, as a result, the rights remain on paper only, without having any real value. A state is known by the rights it maintains. A state is, therefore, known by the system of rights it maintains. The state which gives its citizens a fairly large number of rights is considered democratic and developed.

7.9. Classification of Rights

In common language right implies one's ability to do what he likes. But the word is used in a different sense in Political Science. It has been stated before that by *Rights* Laski has meant certain *conditions of social life* without which the fullest development of self is not possible. States grant these rights to their citizens to enable them to conduct their lives properly. The standard of advancement of a state varies directly with the quality and quantity of these rights.



1. ".....no state will realise the end for which it exists unless it is democracy based upon universal suffrage....."—Laski.

Moral and Legal Rights

Rights may be divided into two broad groups: moral rights and legal rights. Moral rights are based on conscience and sense of justice. The state does not interfere with these rights. For example, a father or a teacher has certain moral rights; and it is the duty of a son or a pupil to abide by them. But, if such a right is infringed, the state cannot enforce it; that is, it cannot punish anybody for refusing to support aged parents, or for denying to pay respect to teachers. Violation of a moral right is condemnable by the society, but is unpunishable.

Legal rights, on the other hand, are protected by law. The state recognizes them. Consequently, penalty is imposed for their infringement. There are four kinds of legal rights: Civil Rights, Political Rights, Social Rights and Economic Rights.

A. *Civil Rights*

Some civil rights are essential for the furtherance of intellectual and moral qualities of the citizens. Without them civilized life is not possible. There are several types of civil rights of which the following are a few important example:

1. *Right to Life*

To look after the personal safety of the citizens is one of the foremost duties of a state. Its two other most important duties are maintenance of law and order and defence of itself against external invasion. Indeed, the protection of lives of the citizens is considered so important that even suicide is viewed undesirable. Unsuccessful attempts at suicide are often punished.

2. *Right to Freedom*

The most important civil right is the right to freedom. Right to freedom can be of five types:—(a) right of free expression, (b) right of free movement, (c) right to form free associations, (d) right to pursue any profession or trade and (e) right not to be arrested.

(a) Every citizen has the freedom of speech and expression. He will not be deterred from expressing what he feels. If his statements are unsavoury but not unlawful, he will not be punished.

(b) A citizen will have the right to move freely within the territory of the state.

(c) Men want to live in association with others, They form

associations for various purposes. If such associations are not unlawful they cannot be prevented.

(d) Citizens have the right of taking to any profession or trade they may like.

(e) No person will be detained without trial. If detained unlawfully, a citizen will have right to appeal to higher court. This may lead to the demand for the writ of *Habeas Corpus* in a court of law.

3. *Right to Property*

Bonds of social life, according to Aristotle, cease to exist without the right to acquire, use and enjoy property. The property right is, therefore, viewed as essential. Although socialism repudiates the idea of personal property, many states still give its citizens the right to hold and use it for the welfare of both individual and society.

4. *Right to Contract*

A citizen may, within the purview of law, enter into contract with another citizen. The state protects and adjusts this right as well as the obligations growing out of it. Of course, the state permits only those contracts which are not against the principle of general welfare.

5. *Right to Equality before Law*

Law does not generally discriminate between the rich and the poor. An offence against law is equally treated irrespective of the status of the offender. Every individual offender has, therefore, the right of getting equal treatment with others.

6. *Right to Family*

Right to be in a family is another important right. Every citizen has the right to marry and lead a family life.

7. *Right to Religion*

Every citizen has the right to choose and follow religion. The Indian state does not favour any religion but allows every citizen to hold religious opinions and practice religion as he pleases.

B. *Political Rights*

The rights that enable citizens to take part actively in the affairs of the state are called political rights. There are several such rights.

1. *Right of Vote*

In a democracy, the citizens vote their representatives to power.

Such representatives are elected by the vote of adult citizens. The right to vote or franchise is one of the most important political rights in the modern age. Usually citizens above the age of 21 are eligible to vote. In some states citizens above 18 can vote. Those who were sentenced by a law court for a serious offence, those that are bankrupt are not eligible to vote. In almost all states there are universal adult suffrage.

2. *Right to get elected*

This right is closely associated with the right to vote. The adults who have the right to vote have the right to be elected too. Of course, there are some posts and positions for which there are special eligibility conditions. The posts of the President and Vice-president of India, for example, require certain qualifications.

3. *Right to get government jobs*

The citizens of a state have right to secure government jobs according to qualifications. These jobs are to be offered irrespective of religion, caste and sex. Some jobs, however, may be reserved for a community. No male citizen can be a nurse. There are reservation to protect and develop the backward communities of India. In the socialist countries the right to get a job has been recognized as a fundamental one.

4. *Right to Appeal*

If a citizen has any grievance against the government he can appeal against it to higher authorities.

5. *Right to criticize government*

Autocrats do not brook any criticism of the government. But in democracy criticism of the government is a condition for its success. In a democracy citizens have the right to criticize the policies of the government.

6. *Right to disobey the state*

There is no unanimity among political scientists on this right. Until recently, it was thought that state power could not be disobeyed. The laws of the state were considered inviolable. But now, the right of the state to get obeyed depends on the success of the state in fulfilling the society's needs and aspirations. As Laski says, the allegiance and loyalty of the citizen to the state depend very much on the extent to which the state satisfies the social ideals. So

obedience to the state and the government is conditional. In fact, Gandhiji has set an example by directing disobedience movement against the British power in India. The Marxists regard the right to revolution against capitalist oppression as an important political right.

7. *The Right to security in foreign*

Another political right is a right of a citizen to security while in a foreign country. If there is any injustice there he will have the right to its redress through the ambassador of his state to the foreign state in question.

Social and Economic Rights will be discussed later.

7.10. *The Duties of Citizens*

The state confers rights on citizens. But citizens should be able to use these rights for meaningful development of themselves. So, they have to be dutiful. Dutifulness is an attribute of good citizenship. The duties of citizens include duty towards family, towards society and state, and towards humanity as a whole.

1. *Duties to the State*

The following are a few duties of citizens to the state :

(a) *Allegiance* : Allegiance to the state distinguishes citizens from aliens. Allegiance implies readiness to defend one's country even at the cost of self-interest.

(b) *Obedience to law* : As laws are meant for common good, a good citizen should not violate them. It is not merely that he should keep the law himself, but should see it done by others. Moreover, he should assist in apprehending law-breakers. In case a law is against the common interest, a good citizen should do his best to reform it.

(c) *Payment of taxes* : The purpose of the State is to secure the well-being of all. Its expenses are met by raising taxes. Every citizen, therefore, has the duty to pay taxes regularly and in this way help the state to carry on its activities.

(d) *Proper use of voting right* : As has been mentioned earlier, every citizen should exercise his voting right conscientiously. It is necessary for conducting the affairs of the state properly.

(e) *Sincere discharge of the public duties* : Those who are in government service should discharge their duties with care and

devotion. Every public official should try to execute the decisions of the government thoroughly. Personal interest should not come in its way.

2. *Duty to the family*

A good citizen has certain duties to his family. Duty to parents is one of them ; indeed, one should look after his parents in their old age. Besides, there are a few others : to support the members of the family including near relations ; to provide education to the young ones ; to provide them with proper medical care ; and to try by all means to make them all happy. It is said that charity begins at home. Truly, the best human qualities—love, affection, respectfulness, sympathy, etc. are reared in one's life at home. Man desires to live with his near and dear ones ; it is one of his natural instincts. The bonds of corporate political life also reveal the same instinct. In fact, responsibility to state and community grows out of responsibility towards family. That is why much importance is attached citizen's life in the family. Duties to family are inseparably bound to duties to the state.

3. *Duty to the society*

Man is essentially a social being ; social instinct is one of his primitive instincts. Life in the society demands certain duties to be performed. Happiness of individual citizen depends upon the condition of the society as a whole. They should, therefore, look after the happiness of the society. To serve the society physically, intellectually and financially, leaving aside individual considerations, is a sacred duty of the citizens.

Our government has taken up certain programmes of social development like construction of roads, establishment of educational institutions, of health centres and of veterinary hospitals ; provisions for drinking-water and sewerage ; promotion of cottage industries, etc. Successful implementation of all these requires people's involvement. Citizens should, therefore, actively take part in such programmes. In addition, they should consider it a social duty to take part in adult education programme. Those who have the opportunity of getting education should fight against superstitious and harmful customs. It is the duty of every educated citizen to bring confidence to the common folk and inspire them with patriotism.

4. *Duty to other Nations*

A man now-a-days cannot remain occupied only with his family,

society or nation ; he has duties to mankind as a whole. The scientific and technological discoveries of the present age have shortened the distance between nations. Highly powerful ships are now able to cross the impassable oceans. Fastest trains, automobiles, telegraph, telephone, television, wireless, etc, have established a close communication between peoples. Supersonic aeroplance are at present flying round the world in three days, and it is highly probable that, in not a very distant future, they will be able to make a round within the span of a day.

As a result of all these discoveries nations have moved closer to each other. The world has become narrower. Far-off lands are now neighbours. Hence, no nation can possibly remain occupied with itself, isolated from the rest. Consequences of one's achievements or failures are deeply felt by others, as political, economic and cultural interdependents ties them together. Consequently conflicts in Vietnam or Palestine are now bound to disturb the peace even in the U.S.A., Great Britain or India.

The United Nations symbolizes the ideals of humanity. It is an assembly of all peoples. It endeavours to solve all international problems through collective efforts. Hence each nation, now, has certain duties towards others. It is the duty of the big powerful nations to help the smaller ones to protect themselves and of developed nations to assist underdeveloped or undeveloped ones to get on to the track of development. Scientific discoveries and artistic creations are properties of international science and world culture ; though made in one country, they are shared by all. It is, therefore, expected that every citizen, despite allegiance to his own state, will do his duties to mankind in general. He should always follow with devotion the ideals of the United Nations, sparing no effort to promote international brotherhood. Everyone should be inspired with internationalism ignoring all sorts of racial, national and cultural differences, and should contribute to the treasure of world-culture to the best of his might.

7.11. The Relation between Rights and Duties

Political scientists have very correctly observed : *Rights imply Duties*. Indeed, *Duty* comes upto mind associated with *Right* ; they go together. Man is a social being ; and his life in the society necessitates certain demands to be placed on others. Viewed from

one angle, these are rights ; from another, duties. Fulfilment of one's rights depends on others sense of duty. Everyone, for instance, has right to enjoy self-earned property ; but he will not possibly be able to do it if others forcibly interfere. While explaining the relation between the two, Professor Hobhouse, therefore, observes : *If I have the right to walk along the street without being pushed off the pavement, it is your duty to give me reasonable room.*

The above example illustrates the relation between moral rights and duties. There is a similar relationship between moral rights and moral duties as well. Thus, as parents have moral rights to be supported in old age, so have they the duty to bring up their children properly. The same relation also exists between political rights and political duties. State can demand allegiance and co-operation from its citizens ; in exchange, it is duty-bound to look after their security, health, education, material happiness, etc. Similarly citizens have many rights, like freedom of property, of movement, and of expression, as well as many duties, like allegiance to state, observance of law, and regular payment of taxes. A state can never protect the rights, if they fail to express allegiance to it or pay taxes regularly.

It is, therefore, obvious that realization of rights largely depends upon the social and political consciousness of the citizens. Thus, one should not use one's rights to achieve personal ends ; and moreover, one should be careful not to use them against common interest. For example, I have the right to heap up garbage on my own land in front of my residence. But, when it affects the health of my neighbours, the act is undoubtedly harmful to common good. It will then be a dereliction of my duty to the society. Hence, the use of every right is accompanied with a corresponding duty to harmonize individual welfare with that of the society.

We have already discussed that the Soviet constitution while granting rights to the citizens has mentioned several duties as well for them to perform. These duties are mandatory.

Duties along with rights in U.S.S.R.

In India there was a powerful demand to change the constitution of our country and to incorporate a number of duties of citizens along with the Fundamental Rights guaranteed by the constitution. As a result, the constitution of India has been amended and the 42nd Amendment Act incorporates ten duties for the Indian citizens.

Recent trend in India

7.12. Fundamental Rights in India

The existence of certain rights is necessary for creating the condition for the best possible development of individuals. These are generally known as Fundamental Rights. The practice of declaring fundamental right has been in vogue since the French Revolution. These have been inserted particularly in the constitutions enacted after the World Wars. An elaborate description of these rights is a special feature of our constitution as well. There are 26 articles on fundamental rights in Part III of the Constitution of India.

Why are they Fundamental ?

Now the question is why do we call these rights fundamental ? In general fundamental rights are those rights that are essential for the fullest development of an individual. These rights create the proper atmosphere and perspective for the individual's development. According to some the fundamental rights make the character of the constitution evident.

Secondly, as the famous constitutional scholar, Shri Durgadas Basu says, there is something special about these rights. These rights are fundamental, because other rights can be amended or revised by the ordinary process of law, while to amend the fundamental rights the constitution itself has to be amended.

Thirdly, these rights conferred a special sanctity as compared with other provision of the constitution. These rights cannot be interfered with except by constitutional means.

Characteristics of Fundamental Rights

The Fundamental Rights enlisted in Indian constitution have certain notable characteristics. In the first place, our fundamental rights do not contain any important economic right. For example, there is no such right as the right to work or right to just wages which are found in the constitution of the Soviet Union.

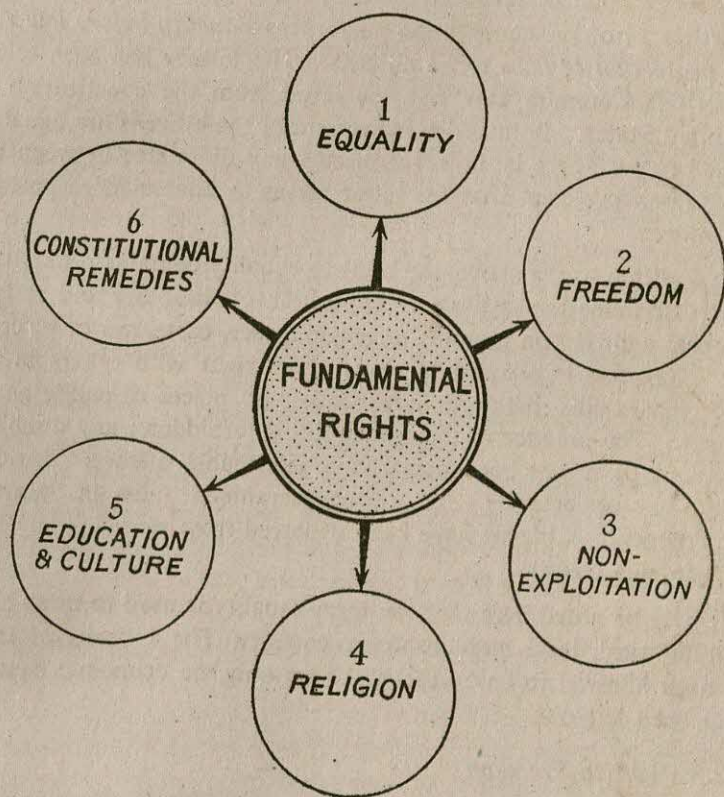
Secondly, the rights in the Indian constitution are divided into two groups. Certain civil and political rights have been enlisted under Fundamental Rights ; certain economic and social rights are under the heading *Directive Principles of State Policy*. The latter rights have no legal validity, and are not enforceable by the court of law like the fundamental rights.

Thirdly, in addition to the rights enjoyable by the citizens only, there are certain other rights enjoyed by both citizens and aliens.

Fourthly, a few fundamental rights are liable to suspension on promulgation of emergency. The President has also powers to suspend the rights to constitutional remedies at the time of proclaiming emergency.

Fifthly, some fundamental rights are negative, some are positive. The negative rights impose certain limitations on the state. The positive ones declare the rights of the citizens.

Sixthly, the fundamental rights are not absolute. The Parliament can impose reasonable restrictions on them. But whether these restrictions are reasonable or not is a difficult question. The courts of law will see to it.



Fundamental Rights in India

The Constitution of India guarantees six fundamental rights which are as follows :

1. Right to Equality.
2. Right to Freedom.
3. Right against Exploitation.
4. Right to Freedom of Religion.
5. Cultural and Educational Rights.
6. Right to Constitutional Remedies.

It may be mentioned here that the 44th Amendment Act deleted the *Right to Property* from *Fundamental Rights*.

1. *Right of Equality*

Article 14 of the constitution guarantees *Equality before law* and *Equal protection of laws* to all citizens. The former has been taken from British Common Law and the latter from the constitution of the United States. Both these, in fact, mean the citizens are equal in the eye of law. There is, however, hardly any difference between the two expressions except that the latter seems to have a more positive implication.

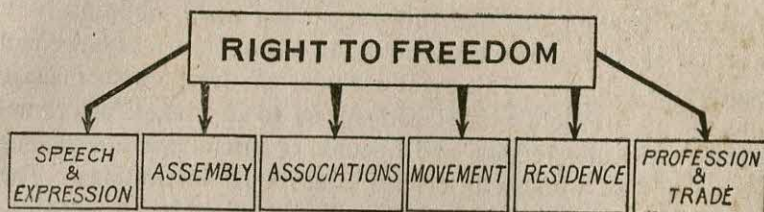
In addition to the above, the right to equality contains prohibition of any discrimination against, or imposition of disability and restriction upon, a citizen on grounds of religion, race, caste, sex or place of birth. Everyone is allowed to enjoy equal right with others in the use of wells, tanks, bathing ghats, roads, and places of public entertainment. The practice of untouchability is forbidden; any disability arising out of it has been declared a punishable offence. Besides, equality of opportunity has been guaranteed also in matters of employment. Citizens have been debarred from receiving any title from a foreign country.

It may be noted here that the term equality is used to mean civil, social, political, legal and economic equality. The citizens of India have been allowed to enjoy the first four only, the economic equality having been left out.

2. *Right to Freedom*

Ordinarily the state does not make any difference among the citizens. But the Constitution states that for the welfare of women, children and some backward communities, certain special measures may be taken. Reservation of seats and posts are examples.

Citizens of India have six types of freedom, described under article 19 of the Constitution. These are 1. freedom of speech and expression ; 2. freedom to assemble peaceably and without arms ; 3. freedom to form associations and unions ; 4. freedom to move freely throughout the territory of



India ; 5. freedom to reside and settle in any part of the territory of India and 6. freedom to practise any profession, or to carry on any occupation, trade or business.

Article 20 states certain personal freedoms of citizens. For an offence a person will be tried according to existing laws and no person will be punished more than once for one crime. Article 21 states that no person will be deprived of his personal freedom except by law. Article 22 provides for certain steps against arbitrary detention.

These freedom are indispensable in a democracy ; through their proper manifestation the ideal condition for democracy can be attained. Hence, the constitution provides for them in a large measure.

But, no freedom is, or can be, absolute. So, a number of reasonable restrictions have been tacked with them. According to the Constitution these restrictions may be enforced on grounds of security and integrity of the state, maintenance of law and order, maintenance of friendly relation with other states, contempt of court, etc. Thus citizens may be wholly or partially deprived of their freedoms in case of necessity. The power of the executive in respect of application of these restrictions have now been considerably increased. Besides, there is also the provision for preventive detention. According to many critics, these are contrary to the principles of democracy.

3. Right against Exploitation

Traffic in human beings and various forms of bonded and forced

labour are prohibited by the Constitution. Any contravention of this provision is punishable in accordance with law. The constitution further provides that in no case a child below 14 may be employed in any factory or mine, or for any hazardous job.

4. *Right to Freedom of Religion*

The Constitution declares India a secular state. Citizens have under article 15, freedom of conscience and of profession, practice and propagation of religion. This right includes the freedom to manage religious affairs, freedom against compulsion to pay taxes for promotion of any particular religion and freedom of attendance at religious instruction and of worship in certain educational institutions. The Hindu welfare and religious organizations are required by the constitution to be open to all sections of the Hindus. There is also a restriction on imparting religious instructions in educational institutions receiving state-aid. This can be done with the consent of the pupil, or in case he is a minor, his guardian. In any event, the freedom of religion is required to be exercised in such a manner as does not affect the general ethical standard, peace, law and order.

5. *Cultural and Educational Rights*

All citizens, residing in different parts of the land, have freedom to conserve their distinct languages, scripts or cultures. Under the constitution, minority communities—religious or linguistic, whatsoever—have the right to establish and administer educational institutions of their choice.

6. *Right to Constitutional Remedies*

The Constitution guarantees the right to move the Supreme Court of India for any infringement of any of the fundamental rights. The Supreme Court has been empowered to issue writs known as *Habeas Corpus*, demanding the presence of all accused before it. The Supreme Court and the High Courts can also issue *Mandamus*, giving directives to an individual, an institution, a subordinate Court or the government requiring fulfilment of responsibilities. Besides, they have the power to issue orders or Writs like *Prohibition*, *Quo Warranto*, and *Certiorari*. These constitutional remedies are there to guarantee enforcement of the fundamental rights.

The Fundamental Rights in the Indian Constitution are made up of certain civil and political rights only. As has been pointed out before, the economic and social rights, in general, are left out. A

few of them may, however, be found in the chapter on Directive Principles of State policy.

Right to Property : A Statutory Right

The Right to Property was a fundamental right in the Indian Constitution. But the 44th amendment act has deleted the Right to Property from fundamental rights. So Right to Property is now a statutory right.

The Right to Property as a fundamental right provided that *No person shall be deprived of his property save by authority of law.* There was, however, provision for requisition of property for public purposes on payment of compensation. The principle for fixing the amount of compensation was to be determined by law. The right to property was amended for the first time in 1951 to carry out land reforms and abolition of zamindari system and subsequently in 1957, 1971 and 1974 to restrict the scope of the article 31 (1).

7.13. Fundamental Duties of the Indian Citizen

In the Soviet constitution the duties of citizens are incorporated along with their rights under the heading —Rights and Duties of the Soviet citizen. But no such duties of the citizens were appended to our Constitution so far. In 1976 the 42nd Amendment to the Constitution of India provided for the following ten duties of the Indian citizens :

1. to abide by the Constitution and respect its ideals and institutions, the National Flag and National Anthem ;
2. to cherish and follow the noble ideals which inspired our national struggle for freedom ;
3. to uphold and protect the sovereignty, unity and integrity of India ;
4. to defend the country and render national service when called upon to do so ;
5. to promote harmony and the spirit of common brotherhood amongst all the people of India, to renounce practices derogatory to the dignity of woman ;
6. to value and preserve the rich heritage of our composite culture ;
7. to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures ;

8. to develop scientific temper, humanism, and the spirit of inquiry and reform ;
9. to safeguard public property and to abjure violence ; and
10. to strike towards excellence in all spheres of individual and collective activity, so that the nation constantly rises higher levels of endeavour and achievement.

7.14. Social and Economic Rights

Civil and political rights have already been discussed. Now we shall take up the other two rights, namely, the Economic and Social Rights.

A. *Social Rights*

Man's life in the society necessitates the existence of certain rights which he needs for the best realization of his self. These are social rights ; without them man's life becomes useless and difficult. Some important social rights are : 1. Right of life ; 2. Right to move freely within the territory of the state ; 3. Right to family life ; 4. Right to social equality ; 5. Right to free and compulsory education ; 6. Right to language and culture.

But it is to be admitted, a number of social, political and civil rights only cannot bring about fulfilment of one's life. For that he requires certain economic rights as well. Laski has defined economic rights as opportunity to earn a reasonable sum to carry on one's living.

B. *Economic Rights*

At one time economic rights meant only the freedom to carry on one's profession. But now it means—1. Right to carry on living properly ; 2. Right to get employment ; 3. Right to get sufficient wage ; 4. Right to unemployment allowance ; 5. Right to old age allowance ; 6. Right to leisure, etc.

In the ultimate analysis, all these economic rights come within the domain of social rights. But, possibly, it cannot be disputed that without those economic rights all other rights turn into meaningless empty dreams. That is why the economic rights have been given constitutional recognition in Soviet Union.

7.15. Directive Principles of State Policy

The political and civil rights of the people of India have found their expression in Part III of the constitution through the Funda-

mental Rights. It may be said that the Fundamental Rights have laid the foundation of political democracy in India. On the other hand, the social and economic rights and aspirations find their expression in the Directive Principles of State Policy. So, the Directive Principles are the basis of India's social and economic democracy.

The fourth part of our Constitution deals with the Directive Principles. The statement of such principles is felt necessary, especially in modern times, as the state's activities are now closely related to the problems of social and economic development. The Irish constitution contains a similar declaration.

The Directive Principles of State Policy describe India as a Welfare State that aims at achieving, through democratic means, the highest possible good of the people. These principles have been inserted in the constitution for the guidance of the rulers. For example, it lays down that it is incumbent upon the state to promote the welfare of the people by securing and protecting a social order in which social, economic and political justice informs all the institutions of national life.

Difference between the Directive Principles and the Fundamental Rights

There are fundamental differences between the fundamental rights and the directive principles of the state policy.

To begin with, the fundamental rights put certain limitations on the activities of the state and thus narrow the spheres of its activity ; while directive principles of state policy are but a few directives and statements of principles necessary for attaining the goals of the state. The former represents a recognition of rights of citizens and the latter a prescription for duties of the state.

The second point of difference is that the fundamental rights are justiciable, but the directive principles are not. This has two important implications : Firstly, any violation of fundamental rights may be remedied by the judiciary, while violation of directive principles is not remediable. Hence, enforcement of a directive principle needs enactment of separate legislation which is not required for enforcement of the fundamental right. Secondly, the court cannot declare a law ultra vires on the ground that the law contravenes

directive principles ; but it can do so when a fundamental right is contravened.

There is a third point of difference. The fundamental rights have legal superiority over directive principles. Consequently, in case there is any conflict between the two, it is the fundamental right which prevails.

The two also differ in objectives. The objectives of the directive principles are socialistic, while fundamental rights deal with democratic ones. The directive principles represent the goal ; but fundamental rights are a constitutional reality. Although our constitution exhibits a combination of both ideals, it lays emphasis on the democratic one.

Directive Principles

As already stated the directive principles of state policy enlist the economic and social rights. These contain four broad types of such rights and principles put together : 1. *Economic principles* ; 2. *Social principles* ; 3. *Principles concerning reforms in law and administration* ; 4. *Principles regarding international policy*.

The Directive Principles of State Policy of our Constitution enjoin upon the state to direct its policy towards securing :

1. adequate means of livelihood to all citizens, men and women alike ;
2. distribution of the ownership and control of the material resource of the community in a manner that come to serve the common good in the best possible way and prevents any concentration of wealth to the detriment of common good ;
3. equal payment for equal work to both men and women ;
4. protection to children and youth against exploitation and moral and material abandonment ;
5. protection of health and strength of the workers, men and women, against possible abuse ;
6. organization of village panchayets by state governments.
7. provision for having the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want ;
8. maternity relief to women ;

9. promotion of cottage industries on individual or co-operative basis : and work, a living wage, a decent standard of life and full enjoyment of leisure and social and cultural opportunities to all workers ;
10. a uniform civil and criminal code throughout the territory of India ;
11. free and compulsory education to all children until they complete the age of fourteen years ;
12. protection to the scheduled castes and sheduled tribes from social injustice and all forms of exploitations, and promotion of their educational and economic interests ;
13. upliftment in the level of nutrition and the standard of living of the people, improvement of public health, and prohibition of intoxicating drinks and drugs except for medicinal purposes ;
14. organization of agriculture and animal husbandry on modern scientific lines and prohibition of slaughter of cows and calves and other milch and draught cattle ;
15. protection of every monument or place or object of artistic and historic interest from disfigurement, destruction, removal, disposal or export ;
16. separation of the judiciary from the executive ;
17. promotion of international peace and security, maintenance of just and honourable relationship between nations, respect for international law and treaty obligations and settlement of disputes through arbitration.

It is to be noted that some of the Directive Principles, such as, organisation of village Panchayets, prohibition of intoxicants, promotion of cottage and small industries, improvement of animal husbandry, etc., has their origin in the Gandhian Philosophy.

The Directive Principles furnish us with necessary guidelines. Most of them are largely socialistic in essence. Undoubtedly, the pledges for economic equality, the unemployment allowance and protection of children and youth from exploitation aim at socialism. The recent declaration in the Preamble to constitute India into a Socialist Republic obviously correspond to them.

Evaluation

But our Constitution is not free from limitations. There are real difficulties in getting the above principles worked out. To be precise,

all of them have been simply mentioned under the Directive Principles, and are not included in the Fundamental Rights. The chapter on Fundamental Rights does not contain the right to economic equality. Had there been such a right, the State would have been compelled to enforce that. The State may only endeavour to achieve economic equality, but it is not legally and constitutionally bound to work accordingly. In fact, the State does not always obey the directive principles, which have no legal binding. That is why we find that excepting in West Bengal nowhere in India unemployment allowance is paid although the country has millions of unemployed people. Validity of rights given to the directive principles would have made our constitution adequate for the establishment of socialism. The Soviet constitution has conferred the right against exploitation, right to employment and right to economic equality as fundamental rights. That is the general principle followed by all socialist constitutions.

So some scholars think that the directive principles having no legal validity, are a mere appendage to the constitution. The Directive principles are not binding at all unless the competent legislature makes a law to that effect. Moreover, though it is the duty of the state to implement the Directives, it can do so only subject to the limitations imposed by the different provisions of the constitution upon the exercise of the legislative and executive power by the state. Further, the Directive Principles which are not enforceable by a court of law cannot overrule the fundamental rights. This is why Prof. K. T. Shah compared the Directive Principles with *a cheque payable by a concern as per its convenience*.

But this view is not wholly acceptable to others. They opine that according to article 37 of the constitution, the directive principles are fundamentals in the governance of the country. In fact, legal validity alone does not guarantee the enforceability of any principle. The directive principles have political importance. They may be successfully implemented by the force of public opinion. Government is compelled to explain their failures in putting them into practice, if public opinion remains sufficiently conscious. And negligence on the part of the government inevitably results in its unpopularity. Thus, in short, the directive principles though not enforceable by the court, may well work as a measuring rod to judge the activities of the government with.

Secondly, these principles have the utility of being guidelines to

the legislators, the judges and the administrators while they act in their respective capacities. The educative value of these principles, too, cannot be ignored. We have, indeed, seen that amendments to the fundamental rights have been made to keep them consistent with the directive principles. Above all, the insertion of the chapter on Directive Principles in the constitution has no doubt enriched it. These principles embody a call to the government to materialize the ideals of Justice, Liberty, Equality and Fraternity mentioned in the Preamble to the constitution.

So we see that there is difference of opinion regarding the value and utility of the Directive Principles of State policy. According to some, Directive Principles are little more than a manifesto of aims and aspirations. Others say that they are a bold step towards the establishment of economic democracy. In fact, there is truth in both these criticisms. But the deluge of criticism that has raged against the Directive Principles because of their non-enforceability is not to be lightly taken. That is why the opposition in the Parliament have been demanding for a long time that the Directive Principles should be made enforceable in law courts and that they should be given greater importance than the Fundamental Rights. Though the 42nd Amendment Act of 1976 has placed emphasis on Directive principles, but these principles have not yet been made justiciable.

Exercise

1. Define citizen. Show the distinction between: (a) a citizen and an alien, (b) a citizen and a national, (c) a citizen and a subject. (7.1)
2. Distinguish between a citizen and an alien. (7.1) [H. S. C. '82]
3. Discuss the modes of acquiring citizenship. (7.2) [H. S. C. '78, '80]
4. Discuss the manner in which Indian citizenship can be acquired. (7.2) [H. S. C. '83]
5. What are the causes of loss of citizenship? (7.3) [H. S. C. '78, '81]
6. What are the qualities of good citizenship? (7.4)
7. What are the hindrances to good citizenship? (7.5) [T. S. B. '79]
8. How can you remove the hindrances to good citizenship? (7.6)
9. What are Rights? Distinguish between the Civil and Political Rights. (7.8 and 7.9)
10. Discuss the Political Rights guaranteed to a citizen. (7.9)
11. Write a notes on : Social Rights and Economic Rights. (7.9)

12. Discuss the Duties of the citizens to the state. (7.10) [H. S. C. '79, '82, '84]
13. 'Rights imply duty'—Elucidate. (7.11)
14. Discuss the correlation between Rights and Duties. (7.11) [H. S. C. '80, '83]
15. What are the Fundamental Rights guaranteed by the Constitution of India to the citizens? Why are they Fundamental? Is Right to Property a Fundamental Right? (7.12)
16. Discuss the Fundamental Rights guaranteed to the citizen of India. (7.12) [H. S. C. '78]
17. Explain in brief any three Fundamental Rights guaranteed by the Constitution of India. (7.12) [H. S. C. '82]
18. Discuss the six freedoms guaranteed to the citizen of India. (7.12)
18. Discuss the Right to Equality guaranteed by the constitution of India to the citizens. (7.12)
19. Write notes on :
 - (a) Right to Equality. [T. S. B. '79]
 - (b) Right to Freedom.
 - (c) Right to Property, [H. S. C. '79]
 - (d) Right to Constitutional Remedies. (7.12)
20. What are Economic and Civil Rights? Explain with illustrations. (7.9 and 7.14)
21. What is meant by political and economic rights? Enumerate some of the political rights incorporated in the Indian constitution. (7.9 and 7.14) [H. S. C. '81]
22. What is meant by Economic and Social Rights? Name some of the important Economic and Social Rights. (7.14) [H. S. C. '83]
23. Discuss the Directive Principles of State Policy in the Constitution of India. What are the differences between the Fundamental Rights and Directive Principles? (7.15) [H. S. C. '80, '83]
24. Explain the significance of the Directive Principles of State Policy enumerated in the Constitution of India. (7.15) [H. S. C. '82, '84]
25. Distinguish between Directive Principles and Fundamental Rights. Name four Directive Principles. Discuss the importance of Directive Principle. (7.15)
26. What are the characteristics of the Fundamental Rights of the citizens of India? Why are they fundamental? (7.12)
27. Why is it necessary to enumerate the Fundamental Rights in a constitution? Discuss the characteristics of the Fundamental Rights as incorporated in the constitution of India? (7.12) [H. S. C. '79]
28. What are the characteristics of the Directive Principles of State policy of constitution of India? (7.15)
29. Discuss the duties of the citizens of India as stated in the constitution. (7.13)
30. Write notes on: Habeas Corpus, Mandamus, Prohibition, Quo warranto. (7.12)
31. Why is it necessary to enumerate the fundamental rights in a constitution? Discuss the characteristics of the Fundamental Rights guaranteed by the constitution of India. (7.12) [H. S. C. '85]

Objective-type Questions

1. (a) What are the two types of inhabitants of a country?
 (b) Name the two chief modes of acquiring citizenship.
 (c) What, according to Lord Bryce, are the chief hindrances to good citizenship?
 (d) Which article of the Constitution of India relates the six rights to freedom?
 (e) Which part of the Constitution of India refers to the Fundamental Rights?
2. Choose the correct answer and tick it
 - (a) Only the (*citizens*, subjects, aliens, nationals) enjoy political rights.
 - (b) Right to vote is a (social, economic, civil, *political*) right.
[H. S. C. '78, '81 and '85]
 - (c) There are (6, 7, 10) Fundamental Rights of the citizens of India.
 - (d) Right to work is a (political, *economic*) right.
[H. S. C. '78, '80, '84]
 - (e) The fundamental rights are (*enforceable*, non-enforceable) by courts of law.
[T. S. B. '79]
 - (f) The Directive Principles of State policy are (justiciable, *non-justiciable*) in courts of law.
[H. S. C. '81 and '85]
 - (g) In the constitution of India at present the right to property is (a fundamental right, *not a fundamental right*) [H. S. C. '80, '82]
 - (h) Right to property is a (political, *economic*) right. [H. S. C. '83]
 - (i) A naturalised citizen (can be, *cannot be*) the president of U. S. A.
 - (j) Right to Property is a (fundamental, *Statutory Right*) in India.
 - (k) Obedience to law is a duty to the (*State*, family).
 - (l) Right to life is a (*Civil*, economic) right.
 - (m) The Constitution of India (*does*, does not) guarantee right against exploitation.
[H. S. C. '84]
 - (n) Under the Constitution of India the right to education is a (*Fundamental Right*, Directive Principle of State Policy)
 - (o) Under the Constitution of India the right to adequate means of livelihood is a (Fundamental Right, *Directive Principle of State Policy*).
 - (p) Right to work (is, *is not*) a fundamental Right guaranteed by the Constitution of India.
[H. S. C. '83]
 - (q) Right to property (is, *is not*) a fundamental right guaranteed at present by the constitution of India
[H. S. C. '85]

checks and balances, parliamentary control over executive, judicial review, protection of the rights and interests of the minorities.

Modern Liberalism

In the early part of the present century modern liberalism emerged as a result of the impact of political democracy and the socialist labour movement on classical liberalism. Modern liberalism is no more an ideology of the middle classes, but turned into an ideology of the masses. John Dewy interpreted modern liberalism both as an attitude and as a programme. As an attitude it lays emphasis on reason and scientific methods. As a programme it stands for some basic principles of individual liberty, democratic institutions and freedom from exploitation.

Features of Liberalism

Alan P. Grimmes in his *The Pragmatic Course of Liberalism* enumerates the following features of liberalism :

In the first place, liberalism considers that freedom of man, rather than his restraint, is a desirable end in itself. Liberalism views the social institutions as means to achieve human worth and human dignity which can be realised by ensuring human freedom.

Secondly, liberalism is anti-authoritarian. Liberalism emerged as a reaction against all sorts of authority, since it considers authority as inimical to individual freedom.

Thirdly, liberalism seeks to extend individual freedom by increasing his area of choice.

Fourthly, liberalism stands for humanitarianism. Humanitarianism is the basic concept of liberalism.

Fifthly, liberalism is not a static creed or dogma, it is a dynamic concept. It looks ahead with a flexible approach, seeking to make the future better for more people.

Grimmes explains the component elements of liberalism. According to him, liberalism represents a system of ideas that aims at the realisation of the pluralistic society. It is opposed to uniformity, it is opposed to conformity. It denotes an attitude towards human problems as well as goals for human endeavour. It desires to establish a society where the people are sovereign and the Government is their deligate.

Hallowell in his *Main Currents in Modern Political Thought* sums up the essence of liberalism : (i) absolute value of human

personality and the spiritual equality of all individual ; (ii) the autonomy of the will of the individual ; (iii) the essential rationality and goodness of man ; (iv) existence of certain inalienable rights like those relating to life, liberty and property ; (v) creation of the state by mutual consent for the sole purpose of preserving and protecting the natural rights of the individual ; (vi) the contractual relationship between the individual and the state to form new government if the terms of the contract are violated ; (vii) law is the instrument of social control ; (viii) limited and negative functions of the government and (ix) the affirmation that the individual is free in all spheres—political, economic, social, intellectual and religious.

Basic principles of liberalism

Hobhouse in his *Liberalism* discussed some basic principles of liberalism. These principles are :

(i) *Civil liberty* : In feudal society laws were made to serve the interest of the ruling class, feudal class and Churchmen. The ordinary people were deprived of the right to life, liberty and property. But liberalism assures civil liberty for all as these are essential for furtherance of intellectual and moral qualities of the men.

(ii) *Fiscal liberty* : The basic concept of fiscal liberty is that there should be no taxation without representation. The representatives of the people should run the affairs of the state and they should be allowed to formulate fiscal policy.

(iii) *Personal liberty* : Personal liberty is essential for the fullest development of self. Personal liberty includes freedom of speech and expression, freedom of belief, faith and worship and freedom of conscience.

(iv) *Social liberty* : Man's life in the society necessitates the existence of certain social liberties which he needs for the best realization of his self. Social liberties implies equality in the social sphere irrespective of caste, creed, religion and place of birth. So social liberty is related to the concept of equality.

(v) *Political liberty* : Political liberty implies equal rights and equal opportunities for all. Political liberty is the essence of liberalism.

(vi) *Economic liberty* : A number of social, political and civil liberties cannot bring about fulfilment of one's life. For that he requires economic liberty. So liberalism puts emphasis on economic liberty which includes unrestrained freedom of the individual in the sphere of production, distribution, borrowing, profit earning and acquiring, holding and disposing of property.

(vii) *Domestic liberty* : Domestic liberty advocates freedom of men and women in the matters of marriage, family life, education and rights for children. It also implies protection against ill-treatment and exploitation.

(viii) *International liberty* : Liberalism is opposed to the use of force as an instrument of national policy. So liberalism stands for peace and international co-operation.

(ix) *Popular Sovereignty* : Liberalism does not believe in the monistic theory of sovereignty. It stands for popular sovereignty which means that the supreme power of political decision lies with the people.

Criticism of liberalism

Liberalism has been criticised from different angles.

In the first place, Sabine says that as a social philosophy, liberalism has failed to hold out any positive social welfare idea or programme. Rather, one is compelled to question the good wishes of the theory because of its undue stress on individual liberty.

Secondly, this theory has failed as a political ideology to hold out before a government any positive programme. But for the welfare of the people positive programmes are essential. So this theory fails to offer as the philosophy of the welfare state.

Thirdly, liberalism is primarily based on individual liberty and laissez faire. So an important criticism against liberalism is that it wants to preserve capitalist exploitation just under the cover of individual liberty. But we must remember that in class society individual liberty becomes actually the liberty to exploit. Such a philosophy of crude and uncritical individualism is, in fact, inconsistent with even social democracy.

Fourthly, liberalism has not developed into a coherent theory. It is pliable and changeable. It has no definite shape.

Finally, most of the advocates of liberalism are men of well-to-do families, they are supporters of capitalism and are opposed to socialism. In their theory an attempt to establish capitalism is noticed.

8.2. Marxism

Karl Marx is an unforgettable name in the history of political thought. Marx's thought, views and teachings are described by the single word, Marxism. In the development of Marxism the contri-

bution of Marx's friend and collaborator, Friedrich Engels, was enormous. In fact, the philosophy of Marx and Engels is called Marxism. In the field of the creative application of Marxism V. I. Lenin did much. His name too is unforgettable. Karl Marx, the father of materialistic philosophy, was born in Germany, the centre of idealistic philosophy. And starting on his journey from the philosophy of the idealists like Kant, Fichte and Hegel, Marx not only laid the foundation of materialism with the help of Friedrich Engels but also developed it. Marx's biographer, Heinrich Gremkov has said that Marx's chief characteristic is that he overcame the limitations of both the idealism of Hegel and the metaphysical philosophy of Feuerbach. Althusser has rightly said that Marx and Engels found out such a world and such a fundamentally different reality as was unknown to the idealists.

Marx has shown that no philosophy is the product of the pure thinking of a philosopher. Every philosophy has its root in life. Marxism has sprung from an outlook of life; it is not merely a product of a philosopher's mind. It is a creative philosophy and a science. Marxism is a general theory regarding this world and the human society. Engels has said that just as Darwin discovered the principle of the evolution of species, so Marx also discovered the principle of the history of mankind.

Source of Marxism

Marxism appeared in the fourth decade of the nineteenth century when there was a turning-point in the world of thought. Marxism is the method of scientific analysis of the relation of the material and the idealistic world. This method is known as Dialectic Materialism. We should here consider the origin of Marxism or Dialectical Materialism. Three important factors are pointed out as the source of Marxism. Of course, there are other factors beyond these three which exerted their influence on the evolution of Marxism. Besides, certain historical events also contributed in the development of Marxian thought.

The source of Marxism thus may be divided into two groups—
1. historical events and 2. theoretical concepts.

1. *Historical events*

As a result of the French Revolution and the Industrial Revolution the modern wage-earner was born. And this by turn gave rise to labour movements. The advent of the labourer class against

capitalism and the movement of the labouring class have an important place in history and are regarded as source of Marxism.

2. *Concepts and theories*

Three streams of thought are regarded as sources of Marxism ; these are British political economy, Utopian Socialism and German idealism.

a. *British Political Economy*

Adam Smith and David Ricardo, the famous British economists, built the economic base of Capitalism. Working on Locke's bourgeois economic principles, Adam Smith enunciated the labour theory of value. And Ricardo developed it fully. Taking the cue from the theory of Smith and Ricardo, Marx described in his *Das Capital* the role of social labour in determining price. Thus was evolved his famous theory of surplus value.

b. *Utopian Socialism*

The French Utopian socialists like Saint Simon, Fourier expressed their opposition to capitalism and envisaged some sort of socialism. In spite of the defects and limitations of this utopian socialism it cannot be denied that it had important contribution in the evolution of Marxism.

c. *German Idealism*

In the advent of Marxism the influence of German idealism also cannot be ignored. In this connection the names of Kant, Fichte and especially Hegel are important. Hegel was the first exponent of dialectics. Marx built his theory of dialectical materialism on the basis of Hegel's dialectics.

The chief aspects of Marxism

To be acquainted with Marxism, one has to know the chief aspects of Marxism. The chief aspects or principles of Marxism are the following :—

1. The philosophical foundation of Marxism—Dialectical Materialism.
2. The historical foundation of Marxism—Historical Materialism.
3. The economic foundation of Marxism—theory of Surplus Value.
4. Marxian theory of State.

5. Marxian theory of Class Struggle.

6. Marx's theory of Revolution.

An understanding of the above theories are essential to form an idea of Marxism. So we will now consider them briefly.

8.3. Dialectical Materialism

Dialectical Materialism is the philosophical foundation of Marxism. Marx and Engels together may be regarded as the chief proponents of Dialectical Materialism.

The German idealist philosophers interpreted the social history of man in terms of dialectical conflict. Hegel had put forward the theory of dialectics much before Marx. Hegel showed that everything in the world is changing. Everything in the material and idealistic world is the result of the dialectical process of the universal spirit. In other words, Hegel's dynamism of conflict is what is called dialectics. The application of dialectics is essential to explain the changing nature and dynamism of the society. The German idealist philosophers confined the application of dialectics to the idealist world—they did not use it to interpret the materialist world. For, the idealists did not believe in the separate existence of a material world. They thought that the materialist world emerges from the idealistic world.

But Marx and Engels, the materialist philosophers, by analysing social change came to the conclusion that the existence of the materialist world does not depend on the idealist world. Nor is the materialist world a creation of an extra-real or divine power. They have shown that the society changes as a result of the dialectical process obtaining in the material world. Dynamism originates from the dialectical process; and all change results from the dynamism. Marx and Engels have proved that materialism is the keynote to the understanding of the change in the materialist world.

Engels presents three fundamental tenets of materialism. In the first place, the dynamism within matter *transforms quantity into quality*. For example, by changing the quantity of portion of an atom it is possible to produce something qualitatively different. By making a quantitative change in the atom, it is possible to produce the atomic power. Similarly, the dynamism of the social system brings about qualitative change through dialectical process.

The second fundamental tenet of dialectical materialism is the *unity and struggle of opposites*. According to dialectical materialism, the source of the changeability of matter lies within matter itself. Matter contains its opposites also. The conflict of the opposites paves the way to change. Dialectical materialism says that each matter contains in itself both the positive and negative aspects. The opposites within matter causes negation and through the dialectical process it acquires a new entity. Thus through the unity and struggle of the opposites change occurs in the material world.

The third tenet of dialectics is the principle of *negation of negation*. Hegel has enunciated three phases of the dialectical process. These are *thesis*, *anti-thesis* and *synthesis*. Suppose, a particular phase of an event is thesis ; its negation is anti-thesis. The new form that evolves out of the unity of thesis and anti-thesis is called synthesis. Synthesis is the change of the old system by preserving what is best in it. Marx accepted this dialectics of Hegel and applied it to explain the change that occurs in the materialist world. Marx shows that by the process of negation the old form changes qualitatively. For example, socialist revolution negates capitalism. Socialism preserves what is best in capitalism ; and yet brings about a better social system by destroying capitalism.

Marxian dialectical materialism is the basis of Marxism. It is possible only by this dialectical materialism to explain the human society and social change properly.

8.4. Historical Materialism

In the social development and social transformation the application of the principles of dialectical materialism is called Historical Materialism or the materialistic conception of history. Historical materialism enunciates the general laws of advent, development and transformation of the socio-economic system.

History and Historical Materialism are not the same thing. The function of history is to describe events ; that Historical Materialism, on the other hand, is to discover the general principle of the development of human life and society. History is a subject and Historical Materialism is a science regarding that subject.

Definition

The roots and causes of social injustice, inequality and oppression are to be found in history of man. In fact,

Historical Materialism originates from this idea. Historical Materialism is nothing other than the dialectical interpretation of society and history. Historical Materialism by applying the principles of social transformation makes the analysis of transformation scientific and realistic.

At one time it was thought that every aspect of the social and individual life was regulated by Almighty God. The idealists thought that history was the expression of the creative power of the divine spirit. Before the advent of Marxian thought, no thinker was able to

Explanation tell us scientifically what the moving force of history is, and what the real meaning of social history is. Marx analysed that social development is not the result of the effort or wish of any divine power. Social development is the result of the dialectical relation between the individual and his material condition. This idea of Marx is the Kernel of Historical Materialism. Historical Materialism can be presented by means of several chief principles.

In the first place, Marx has shown that the individual separates himself through labour from the material condition and for some historical necessity builds up a social environment and changes that environment by the application of labour. Other animals than man can use their environment through their labour; but they cannot change their environment.

Secondly, man by using creative labour builds up a system of production. The question of social change is closely linked with that development of the system of production. The progress of civilization, the changes in the world of thought, the evolution of culture all depend on the change in the mode of production.

Thirdly, forces of production and relation of production interact. And through that interaction revolutionary changes in the social system result. By forces of production is meant the sum total of the labouring man, the tools of production which man's labour produces and the natural resources. In other words, man's labour + tools of production + natural resources = forces of production. In the application of labour the relation of man to man is called relation of production. To make it clearer, it may be said that the relation between the owners of the means of production and the men engaged in production is called the relation of production. Marx and Engels

gave a scientific explanation of social development by correlating forces of production and relation of production. They showed that social development was the result of the dialectical relation between these two. If the relation between these two is hostile, then the dialectical process brings about revolution in the society.

From the above discussion it is clear that there is no Almighty power behind history; history is created by man. History is the purposeful action of man. In other words, social change is not the result of the direction by any Divine power. Social change and social development result from the interaction of forces of production and relation of production.

8.5. Theory of Surplus Value

We have said before that one of the sources of Marxism is the British political economy. Adam Smith and David Ricardo, the two British economists, propounded the labour theory of value. Marx took up the cue from that theory and enunciated his famous theory of surplus value. In this theory Marx threw fresh light on the role of social labour. Marx showed that in the capitalist mode of production the owners of the means of production appropriate the labour of the wage-earners and thus appropriate surplus value. Let us take an example. Suppose to produce something the expenditure towards the cost of raw material, wage and other expenses is Rs. 100/-. In other words, the cost of manufacture (M) is Rs. 100/-. The product is sold in the market for Rs. 300/-. So the market price (M^1) is Rs. 300/-. In this case the surplus value is Rs. 300/- — Rs. 100/- ($M^1 - M$) = Rs. 200/-. This surplus value of Rs. 200/- is created by labour. The owner deprives the labourer by appropriating a big part of this surplus value. That part is the profit of the owner.

8.6. Marxian theory of State

Marxian theory of state is totally different from the Western ideas of state. Historical Materialism is the basis of Marx's theory of state. Marxian theory of state is explained in the Communist Manifesto (1848) of Marx and Engels, in the Origin of the Family, Private Property and the State (1884) of Engels, and in Lenin's The State and Revolution (1917). It is said that an idea of Marx's theory of state can also be found in his essay, The Eighteenth Brumaire of Louis Bonaparte (1852). Marxian theory of state originated from the philosophy of Marx and

Origin

Engels and this theory of state was later developed by Lenin and Stalin.

It has already been said that the basis of Marxian theory of state is Historical Materialism. So it should be understood in the background of historical materialism. The idealist philosophers think that the change in idea, ideal and mental process results in the change of historical course and of society. Hegel spoke of the influence of the existence of God in human existence. He tried to explain social development in the light of divine existence. But according to historical materialism idea evolves out of matter. So according to

Idea evolves
out of
matter

Marxism, society changes as a result of change in the relation of production and ideas, ideals and mental acts too change accordingly. Marx did not ignore ideas, ideals, religion etc. ; but

according to him, they are but reflection of the material world. The ideas and concepts of the human mind are born out of that reflection. In the words of Marx himself, "*With me the ideal is nothing else than the material world reflected by the human mind, translated into forms of thought.*" Through his analysis Marx has shown that in a society the institutions, legal systems, ideas all develop on the basis of *economic base* and are influenced by it. Engels also says that social institutions, laws, arts, religions beliefs are the *super-structure*. This superstructure develops on the basis of Economic base and is influenced by the latter. Of course, sometimes the change in the superstructure influences the economic base also.

Base and
super-structure

Marx analysed the social history of man in the light of the above materialistic outlook. He said that *the history of all hitherto existing society is the history of class struggle*. The class struggle which had its beginning in the age of farming became clearer in the feudal age. And after the industrial revolution the class struggle became extremely acute as a result of the rise of the labourer class.

Marx has shown that different social class-relations emerge on the basis of the mode of production. There are two aspects of the mode of production. In the first place, there are the forces of production. By forces of production is meant the tools of production, the labourer and his efficiency or capability.

Relation of
production

The second aspect is relation of production.

By relation of production is meant the relation between one class and another in the existing social system. In the

mode of production the class that owns the means of production is the dominant class. This class tries by maintaining their oppression of the poor to keep up the existing relation of production. In the modern system of production there are in the main two classes. One is the capitalist class. This class owns the means of production and by reason of that they appropriate a large part of what should go to the labourer or producer. A commodity is produced by the labour of the labourers. But they are deprived of their due. This is appropriate by the owners of the means of production. Marx has called it surplus value.

In all ages the oppressor class has in their attempt to protect themselves from the dissatisfaction of and attack by the oppressed class employed the police, the military and other forces. These forces have always been employed to subdue an oppressed class. In the view of Marx, the state is nothing other than an institution organised by the oppressor class to serve their interest and to keep the oppressed class subdued. So state is the preserver of class-relations and is the expression of coercive power. By analysing history Marx has

State is a
weapon of
exploitation

shown that ever since the age of livestock farming through the feudal age to this present age of industrialization, this character of the state holds goods, the class that dominates in

the society and that controls state power utilises the state machinery to coerce the oppressed classes and to maintain its exploitation. Thus the state is an organ of exploitation. It is nothing other than a weapon in the hands of the owners of the means of production to oppress the working class; the state is an executive committee for administering the affairs of the whole bourgeois class. The dominant or oppressor class in order to further its class interests and to subdue the oppressed classes rear up through the state certain principles called laws and execute them. Lenin has said that the state is the product and manifestation of the irreconcilability of class antagonism. It is an organ of class rule; an organ for the oppression of one class by another.

Marx thinks that to end the increasing and ceaseless oppression of the deprived class by the oppressor class, and to establish social justice and equality a powerful organisation of the proletariat class or the working class should be set up. This organisation will bring about a revolution. The oppressor class will in no way give up state power; they will try their best to maintain their control over the

state machinery in order to keep up oppression. So Marx thinks that it is only by revolution that the oppressor class can be defeated.

Capture of state
power by the
working class

Thus through armed revolution the working class will wrest state power from the oppressing and ruling class. And by capturing state power the working class will establish the dictatorship of the proletariat. This will first destroy the capitalist class and capitalism itself. Secondly, it will establish by the application of state power what is called state socialism. Thirdly, gradually the state controlled socialism will transform itself into communism. In the communist society each individual will work according to his capacity and will get according to his need.

In the Marxist view, there will be no need for the state in the communist society. In that society, there will be no antagonistic classes. And so a classless society will be established. When in a society different classes exist their interests clash and the dominant class oppresses the weaker class in its own class interest. But since there will be no classes in the communist society, there will be no state to protect the interest of any class. That is why Marx has said that in the communist society the state will wither away.

Criticism

The Marxism theory of state has been as much welcomed warmly as it has been criticised. In fact, no other theory in the world has received such praise and criticism simultaneously. The following are the main objections raised against it :

First, in the opinion of its critics, Marx in his Materialistic interpretation of history has laid too much emphasis on the economic aspect and has ignored the role of ideas, ideals, concepts and religion. Of course, it is not true that Marx has ignored these. He only has said that these evolve out of economic base-structure. Matter according to him is more important than idea.

Secondly, the Marxian theory has been criticised as having ignored the importance of politics, law, etc. Karl Popper, the German philosopher, has said that by ignoring politics Marx has made politics barren. This criticism, too, is unjustified. Marx has nowhere ignored the importance of politics or the political institutions. He has said that they are the super-structure, standing on the economic foundation which is the base. Karl Popper has not done justice to Marx.

Thirdly, it is said that Marx has laid too much and undue importance upon the conflict of class interests and upon class struggle. It is said further, that Marx has noticed only class struggle in history ; class collaboration has escaped his notice. Unfortunately, this criticism also is one-sided. In fact, class antagonism and class-struggle were there in the past and are still there in the modern world. Marx has shown that class struggle started at a particular stage of social development and will end at another particular stage. Thus, the Marxian theory has expressed the reality of the existence of class conflict. It has envisaged that this conflict will be eliminated by the establishment of socialism.

Fourthly, the critics further say that Marx believed in the relativity of religion and ethics. That is why he failed to realise the permanence of ethical values. In reply to this criticism, it may be said that if we study the history of ethics we find that in many countries mutually conflicting ethical principles exist. This proves that religion, ethical codes, etc. are but relative. What is highly immoral or unethical in one society, may not appear objectionable in another society.

Fifthly, it is said that Marx's prophecy that in the communist society the state will wither away has proved wrong. For, in the Soviet Union and in the other communist states, communism has been established but the state has not withered. Rather, the state has gained more power and influence. In reply, we can echo what Lenin said. The socialist state will continue to exist so long as the imperialist state will be there.

Above all, the critics apprehend that the conflict, violence and revolution as envisaged by Marx will prove harmful for the socialist society. A society that will be built by violence cannot be, they say, peaceful and prosperous. But if we look at the socialist states of Asia and Europe and elsewhere, we do not see any reason to be afraid.

In spite of the criticism against the Marxian theory, its importance and influence are not diminishing. Its influence is growing, rapidly. Prof. Laski has rightly said that "in every country of the world where men have set themselves to the task or social improvement, Marx has been always the source of inspiration and prophecy."

8.7. Theory of Class Struggle

Marx was the first to explain scientifically the origin of classes,

class character, and class struggle. By reviewing the social history of man Marx has shown that at the earliest stage of the society there were no classes. Classes emerged at a particular stage of social development and for historical reasons. By

What is
class ?

classes is meant sections of people who stand on different stages in the system of production, whose relations with the means of production are different and whose rights on the social wealth are different. When in an economic system one group offers its labour, and another appropriates the labour of the former, then the classes emerge.

When different classes exist in a society, one class appropriates the fruits of the labour of other classes and that gives rise to class antagonism. Suppose, for example, a worker produces a commodity by his labour and it is sold for two hundred rupees. The worker is given just twenty-five rupees as wage. The rest, that is, Rs. 175/- is appropriated as profit by the owner of the means of production. These two people are members of two different classes and their interests are antagonistic. So there grows class antagonism between them.

Marx has shown that in the pre-social age no one appropriated the fruits of other's labour. And so no classes existed. But at a particular stage of the system of production classes made their appearance. The existence of classes means the existence of class conflicts. Marx has shown that in a class-society, different classes will inevitably clash if there is conflict of interest among them. Class

Inevitability of
class struggle

struggle thus is a historical feature of class societies. Its existence is not dependent on anybody's wish. In the Communist Manifesto, Marx and Engels have written that the history of all hitherto existing societies is the history of class struggle. Excepting the primitive communist system, all later systems have been regarded as societies. This means that this statement of Marx and Engels apply to the slave society and all later societies. Marxism has offered class struggle as a scientific explanation of the moving force in society.

In the slave society there were two classes—the slave and the slave-owner. The slaves worked hard to produce commodities and the slave-owners appropriated the fruits of the slaves' labour. This gave rise to conflict of interests between these two classes. So in

the slave society class struggle went on. In the feudal society, there were the serfs on one side and the feudal lords on the other. The feudal lords prospered by appropriating the fruits of the labour of the serfs. Class struggle existed and went on in the feudal society too owing to the existence of the conflict of interests of these two classes. In the modern bourgeois society also class struggle could not be eliminated. It rather became very acute. On one side there is the proletariat or the working class and on the other there is the bourgeois capitalist class, i.e., the owners of the means of capitalist production. The bourgeoisie has prospered on the fruits of the labour of the working class. That is why there is sharp class struggle in the bourgeois society.

The above class struggles are economic in nature. Apart from these there are struggles against the bourgeois ideology. The ultimate form of class struggle is political class struggle. It is through political struggle that the working class wrests power from the bourgeoisie and builds up the new system. Thus socialism is developed. In the socialist-system the means of production are brought under the control of the society. The social ownership of the means of production eliminates class conflicts. For none appropriates the fruits of other's labour. An end is put to social oppression. The classless society develops. As a result of the establishment of the socialist society, there is a change in class relations.

Revolutionary situation is created when class struggle becomes very sharp. And then political class-struggle begins. The oppressor and ruling class tries to keep up the old mode of production. But the forces of production develop. There appears a conflict among the classes owing to the unequal development of the forces of production and the relation of production. The working class brings about revolution through political class-struggle and establishes new relations of production. There is then no obstacle in the way of the development of the forces of production.

The bourgeois theorists accept the existences of different classes in the society but do not accept the existence of class struggle. They rather criticise Marxism for having created conflict in the society and for creating the revolutionary situation. They say that Marx has laid undue importance on the difference of class interests; he has failed to notice class collaboration which exists side by side. This criticism, of course, is

Evaluation

not justified. Marx has objectively analysed the history of the society. He has presented a scientific and realistic explanation of the existence of classes, their place and role in the system of production, and the oppression of one class by another. And in this background, he has analysed class struggle by applying the theory of historical materialism. What he has said is based on historical truth. That is why the imaginary story of the collaboration and cooperation between the oppressor and the oppressed has found no place in his writings.

8.8. Theory of Revolution

The bourgeois theorists think that any change of government by sudden and violent action is revolution. But such a definition of revolution is wrong. In the first place, this definition does not make any difference between revolution and counter-revolution. As a result of the Bolshevik Revolution of 1917 in Russia the feudal-bourgeois system broke down and socialism was established. In 1973 in Chile, on the other hand, the progressive Salvador Allende was put to death and a fascist government was set up. The first was a revolution and the second a counter-revolution. Secondly, in the bourgeois definition of revolution, the fundamental socio-economic changes in the social development have not been properly emphasised. According to Marxism, revolution opens up the possibilities for the full development of the forces of production as the chief source of progress. This is done by changing the ruling class and the socio-economic system. In other words, revolution is the change in old relation of production and the setting up of new relations of production. This causes a qualitative change in the socio-economic structure. Revolution brings a thorough and fundamental change in the laws, ideologies and the state system. As a result of the socialist revolution, the bourgeois state breaks down and the socialist state is built up under the leadership of the working class.

Marx and Engels have announced that revolution is inevitable. They have said that the destruction of capitalism is inevitable. According to Marxism, the socialist revolution under the leadership of the proletariat, will put an end to capitalism and will establish socialism. The inevitability of revolution

The destruction of capitalism is inevitable because the germs of its destruction lie within capitalism itself. In other words, Marx and

Engels regarded socialist revolution as a particular stage in the crisis of capitalism.

As a condition of the socialist revolution, Marx and Engels laid stress on its objective and subjective elements. It is not that the revolution will occur spontaneously owing to the crisis of capitalism. The working class will have to consciously organise the revolution. The revolution will take place only when the objective and subjective conditions are fulfilled.

Lenin analysed and examined the objective and subjective conditions of revolution in the perspective of the Bolshevik Revolution of Russia. The objective conditions of the socialist revolution are the following : first, the self-contradiction of the capitalist system and the contradiction in the capitalist world weakens the basis of capitalism. It is then no longer possible for the ruling class to continue the old tactics of rule. Grave crisis appears in the upper layer of the society. Secondly, the miseries and dissatisfaction of the oppressed class becomes very sharp indeed and thirdly, the oppressed class becomes mentally prepared to play its historical role, that is, in bringing about the socialist revolution.

For the success of revolution the subjective conditions too must be fulfilled. They are—1. revolutionary awareness among the working class people ; 2. the mental preparedness and organisation of the people to take part in the revolution ; 3. the existence of political parties to lead the popular struggle. We can think that the situation is ripe for revolution if the above objective and subjective conditions are fulfilled.

There is no mechanical formula regarding whether the revolution will be violent or peaceful. That depends solely on the ruling class. It has been clear from experience that the ruling class never willingly forsakes state power. Rather, they try by using state power to subdue the revolutionary force. It is then upto the revolutionary force to protect revolution by using force. The working class never unnecessarily sheds a drop of blood. It is to be remembered that though revolution is apparently destructive, it is actually constructive in nature ; it holds out the promise of a better and happy future.

Criticism

There are many critics of the Marxist theory of revolution. Some say that revolution is the most harmful and dangerous type of social

change. It is violent and is effected by applying force. Some, say that bringing change in the lawful government by revolution is undemocratic. Some, again, lay stress on the harmful side of the revolution and question the necessity of revolution. Some people therefore, speak of social change through reforms. They want to eliminate revolution. Some others dream of social revolution through revolution in science and technology. These criticisms show that the critics are all eager to preserve the bourgeois social system. This is the reason for their attack on the Marxian theory of revolution. But as long as the capitalist system will be there, the relevance of the Marxian theory of revolution is unquestionable.

8.9. Democratic Socialism

Democratic Socialism made its appearance as an alternative to Marxism or Scientific Socialism. The advocates of Democratic Socialism present this theory which is but an artificial amalgam of certain bourgeois democratic ideas and those of Socialism. Democratic Socialism owes its origin to the attempt at assimilating political liberty with economic power. As a result of the combination of individual political liberty and the economy of laissez faire, there is extension of individual enterprise and increase in production on the one hand. On the other hand there is increased poverty and misery of the people. As Carlyle says, a large part of the people then enjoyed the limitless liberty to live without food, dwelling and clothes. In such a circumstance, the question of the social well-being of the people became very important. At this time, a group of theorists said that it was not possible to bring happiness to the society by applying the economic tenets of Adam Smith and Ricardo. These theorists did not favour Scientific Socialism either. So they took certain principles of bourgeois democracy like democratic rights and liberty and combined them with economic equality, improvement of the service condition of the workers, social welfare work and other development projects. Thus combining these two sets of principles they built a new theory, the theory of Democratic Socialism.

In the rise of Democratic Socialism, the importance of the role of the German Social Democratic Party cannot be ignored. The chief exponent of Democratic Socialism was Edward Burnstein. Apart from Burnstein, two other German thinkers, J. K. Rodbertus and F. Lassale also developed this theory. They were at first inspired by Marxism. Starting from

the government control over commerce and industries would be increased and certain welfare programmes would be taken up. So it can be said that Democratic Socialism is a system in which capitalist and feudal socialistic reforms and welfare programmes are sought to be implemented.

Its features and fundamental principles

From the above discussion certain features and principles of Democratic Socialism should be clear by now :

First, according to this theory, socialism and democracy are not incompatible. Rather, socialism is not complete without democracy ; and democracy is not complete without socialism. That is why, the advocates of Democratic Socialism regard democracy as the life-blood of socialism and so consider the synthesis of the two absolutely necessary.

Secondly, Democratic Socialism does not believe in the Marxian theory of class struggle and revolution. The advocates of this theory say that different classes always did and will exist in the society. To establish socialism it is necessary to hold out not class struggle but class collaboration. In other words, this theory does not accept the need to build a classless society.

Thirdly, Democratic Socialism believes in evolution instead of revolution. It thinks that it is possible to bring about socialism slowly by peaceful means.

Fourthly, the advocates of this theory reject the concepts of classless society and the dictatorship of the proletariat. They think it possible to arrive at socialism through peaceful co-existence and co-operation of different classes.

Fifthly, Democratic Socialism does not regard the state as an organ of class rule and exploitation. Rather, it regards the state as an organ through which freedom and socialism can be established. Democratic Socialism lays stress on the positive aspect of the state's functions. Naturally, this theory does not accept the withering away of the state.

Sixthly, according to the advocates of Democratic Socialism in every social system socialism can be established if there is democratic structure and if democratic means are followed. They are not aware of the need to build a particular economic base or socialist economy

before trying for socialism. They hope to establish socialism simply by nationalising certain industries and by introducing reforms.

Its difference with Scientific Socialism

From the discussion of the definition and features of Democratic Socialism it becomes clear that there is considerable difference between Marxian or Scientific Socialism and Democratic Socialism. Unlike Marxism, Democratic Socialism does not regard the State as a weapon of class-rule and exploitation. Marxism thinks that for the establishment of socialism class struggle, socialist revolution (whether armed or peaceful), the establishment of classless society and the dictatorship of the proletariat are absolutely necessary. But Democratic Socialism does not think so. Democratic Socialism rather regards class collaboration as sufficient. It envisages social change by constitutional and democratic means in place of socialist revolution. In place of the dictatorship of the proletariat, Democratic Socialism envisages bourgeois democracy. Marxism speaks of revolutionary change; Democratic Socialism speaks of evolutionary means. Marxism thinks that the destruction of capitalism is inevitable. Democratic Socialism does not think so. Above all, Democratic Socialism does not accept the Marxian view that for the establishment of socialism it is necessary to build up socialist economic system. Democratic principles and bourgeois democratic ideas are the core of Democratic Socialism.

Though the word 'Socialism' is attached to Democratic Socialism, there is no doubt that it is sharply opposed to Marxian Socialism. The difference between the two is not quantitative; it is fundamental.

Criticism

The theory of Democratic Socialism has been seriously criticised from different angles.

First, if by democracy bourgeois democracy is meant, then Scientific Socialism is not possible in that set-up. In bourgeois democracy, there is absolute individual right of private property, production, distribution, etc. But Socialism is not possible if such private rights are preserved. On the other hand, if individual rights are ruled out in order to establish socialism, then democracy will hardly exist. So bourgeois democracy and socialism are not compatible.

Secondly, as E. M. Burns has said it is possible to separately achieve democracy or socialism. But it is not possible to achieve both at the same time. The name of this movement is almost a contradiction in terms.

Thirdly, critics also question the feasibility of establishing socialism by democratic and constitutional means. It is said that it is not possible to establish socialism without bringing revolutionary change in the economic structure. But the owners of the means of production will never willingly accept such revolutionary economic changes. So it is not possible to establish socialism by peaceful and democratic means, that is why the attempt at establishing socialism by democratic means has nowhere been successful.

Fourthly, Democratic Socialism speaks of cooperation and collaboration among the different classes. But if there are different classes in a society, their interests must be opposed. So if cooperation is sought to be ensured amidst conflicting interests, that will mean that exploitation will stay. Robert Owen spoke of the cooperation between the workers and the mill-owners. Class collaboration will only prolong economic inequality and social injustice.

Fifthly, critics also strongly criticise the advocates of this theory for their attitude to Socialism. Democratic Socialists think that Socialism can be achieved merely by introducing some labour welfare reforms and by nationalising certain industries. But they have failed to understand that there must be fundamental economic change and that change must be brought about by revolution. The path of reform may look nice and smooth. But it is not the path to socialism.

Lastly, Democratic Socialism is but an artificial amalgam of democracy, capitalism and socialism. It is actually an attempt at building up a welfare state within the set-up of capitalism. It is very far from real socialism.

Questions

1. Discuss critically Liberalism as a political theory. (8.1)
2. Explain the characteristics and basic principles of Liberalism. (8.1)
3. What is Liberalism? Discuss its features. (8.1)
4. What is Marxism? Discuss the sources of Marxism. (8.2)

5. Discuss any one of the major theories of Marxism. (8.3 to 8.8)
6. Discuss Dialectical Materialism. (8.3)
7. What is Historical Materialism? Explain the theory of Historical Materialism. (8.4)
8. Write a note on the theory of Surplus Value. (8.5)
9. Critically discuss Marxian Theory of the State. (8.6)
10. Explain Marxian Theory of the state and write a note on the 'withering away of the State'. (8.6)
11. Discuss the Marxian theory of the State. What are the criticisms against it? (8.6)
12. Discuss the Marxian theory of class-struggle. (8.7)
13. Explain Marxian theory of Revolution. (8.8)
14. Define Revolution? Discuss the Subjective and Objective conditions of Revolution. Distinguish between Revolution and Counter-revolution. (8.8)
15. Define Marxism and discuss any one of the major theories of Marxism. (2.3 to 8.8)
16. Write notes on :
(i) Dialectical Materialism, (ii) Historical Materialism, (iii) Withering away of the state, (iv) Sources of Marxism. (8.2 to 8.8)
17. What is Democratic Socialism? Discuss the features and basic principles of this theory. (8.9)
18. Discuss the theory of Democratic Socialism. Discuss the criticisms against it. (8.9)
19. Write a note on Democratic Socialism. (8.9)
20. What is Democratic Socialism? Compare this theory with Marxism.

Objective-type Questions

1. Choose the correct answer from those given in the brackets and tick it :
 (i) An advocate of Liberalism is (Hegel, Marx, *Bentham*).
 (ii) (Idealist, *Utilitarian*, Materialist) philosophers are supporters of Liberalism.
 (iii) The essence of Liberalism is (*individual freedom*, State authority)
 (iv) Individual freedom is the basic principle of the theory of (Democratic Socialism, Marxism, *Liberalism*).
 (v) (Marxism, *Liberalism*) says that development of personality of individual can be assured by extending individual liberty.
 (vi) (*Liberalism*, Idealism) is opposed to state authority.
 (vii) (*Liberalism*, Democratic Socialism) wants to restrict state authority.
 (viii) (*Liberalism*, Democratic Socialism) believes in human goodness.
 (ix) The chief exponent of Democratic Socialism is (J. S. Mill, Karl Marx, *Burnstein*).
 (x) (Aristotle, Hegel, *Fabian Socialists*) has/have contributions for the emergence of Democratic Socialism).
 (xi) (Marxism, *Democratic Socialism*) does not believe in class-struggle.
 (xii) (Marxism, *Democratic Socialism*) wants to establish socialism by constitutional way.

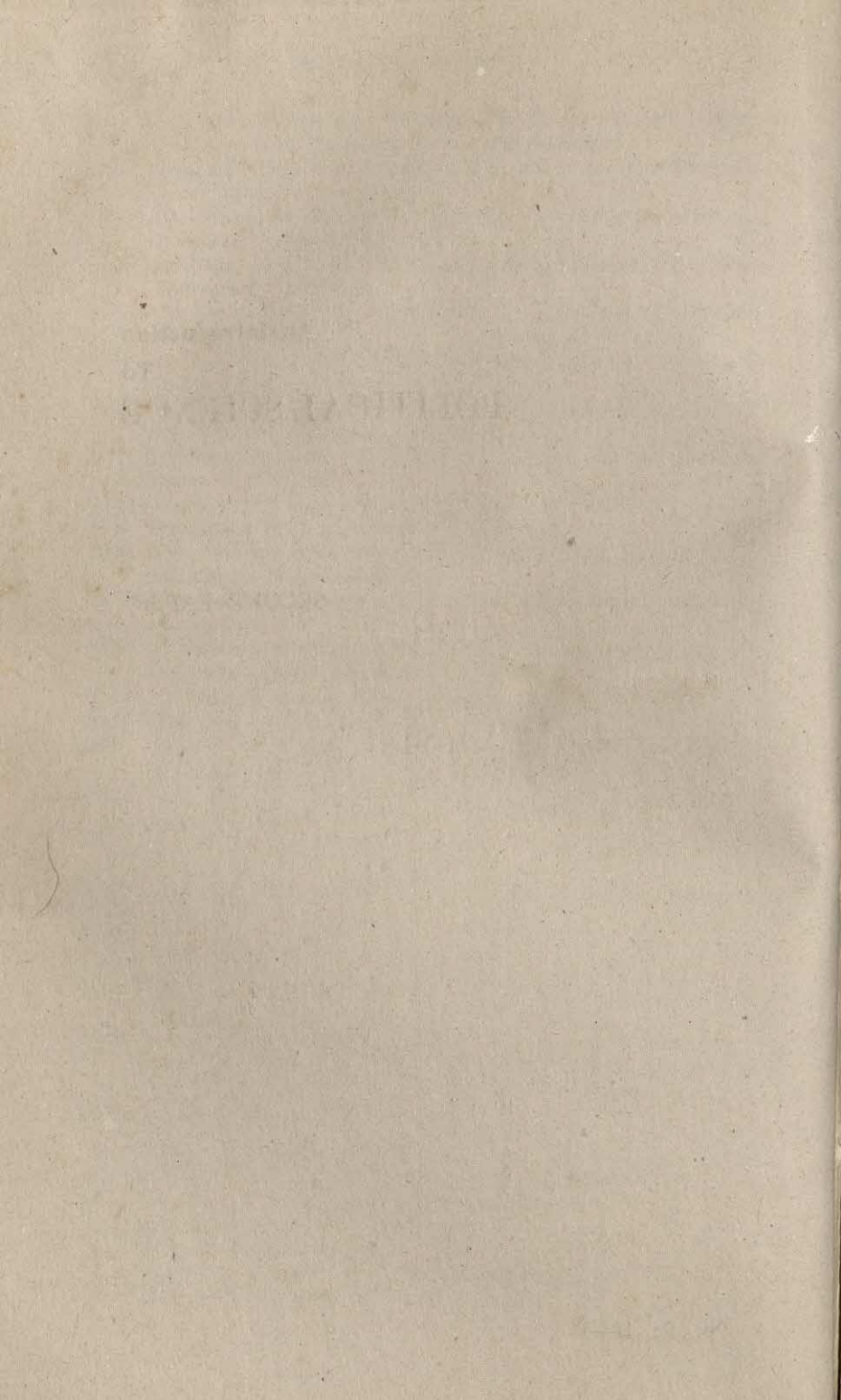
- (xiii) In lieu of Revolution, socialism can be established through evolution—says (Marxism, *Democratic Socialism*).
- (xiv) Democratic Socialism (considers, *does not consider*) the state as an instrument of class-rule.
- (xv) The differences between Marxism and Democratic Socialism are (*qualitative, quantitative*).
- (xvi) Socialism is not possible with Democracy—says (Liberalism, *Democratic Socialism*).
- (xvii) One of the sources of Marxism is (Liberalism, Utilitarianism, *German idealism*).
- (xviii) In the formulation of Marxism Marx's co-author was (Hegel, Stalin, *Engels*).
- (xix) In the development of Marxism maximum contribution was made by (Bentham, Burnstein, *Lenin*).
- (xx) (*Utopian Socialism*, Democratic Socialism) is an important source of Marxism).
- (xxi) Productive force = Human labour + Natural resources + (productive relation, *means of production*).
- (xxii) Two elements of production is Productive force and (Social resource, *Production relation*).
- (xxiii) The basis of Marxism is (Liberalism, Utilitarianism, *Dialectical Materialism*).
- (xxiv) (Liberalism, *Marxism*, Democratic Socialism) says about the withering away of the State.
- (xxv) The state is (base, *super-structure*).
- (xxvi) The economic system is the (*base*, super-structure).
- (xxvii) 'The history of all hitherto existing societies is the history of class-struggle'—says (*Marx and Engels*, Lenin, Stalin).
- (xxviii) The state is the instrument of exploitation—said (Hegel, Bentham, *Marx*).
- (xxix) The State is the product and manifestation of class antagonism — said (Plato, Hege, *Lenin*).
- (xxx) The State is a coercive power—says (*Marxism*, Democratic Socialism).
- (xxxi) The advocate of the theory of Surplus Value is (Hegel, *Marx*, Lenin).
- (xxxii) Revolution is (mere change of ruler, *qualitative change of the society*).
- (xxxiii) Revolution (*differs*, does not differ) from counter revolution.
- (xxxiv) Hegel used dialectics to explain the (*idealist world*, the materialist world).

2. Answer the following questions :

- (i) Name three advocates of Liberalism.
- (ii) Name the freedom that liberalism desires to ensure.
- (iii) Who are the chief exponents of Marxism ?
- (iv) What are the sources of Marxism ?
- (v) Name two British classical economists.
- (vi) Name two advocates of Utopian socialism.
- (vii) Name three exponents of Idealistic theory.

An Introduction
To
POLITICAL SCIENCE

SECOND PAPER



Constitutions are codes of rules which aspire to regulate the allocation of functions, powers and duties among the various agencies and officers of Government and define the relationship between these and the Public.

—S. E. Finer

CHAPTER ONE

Constitution

1.1. Meaning of Constitution

The Constitution is the aggregate of laws and customs under which the life of the state goes on. Or, as Wheare says, it is the body of rules which regulate the ends for which and the organ through which government power is exercised. The organizational character of any institution is ascertained from its constitution. It is the constitution which reveals the administrative system and nature of a state. In most cases the administrative system of a state is embodied in a document. This document is called the *Constitution*. In some cases, however, the constitution is not kept in writing. The British Constitution, for example, is not a written one. Tocqueville says, therefore, that the Constitution of Britain does not exist. This is a wrong idea. There is no point in thinking that everything about a country's administration can be known from its written constitution. For, the constitution is not anything like a detailed history of the administrative organization of a state. The administrative system, like the social system, changes from time to

Meaning of
Constitution

time. The constitution of a state evolves in consistence with the social, economic and political ideas and environment of the age. Changes in this ideas and environments necessitate changes in the constitution as well. That is why it is said that constitutions grow and are not made. Woodrow Wilson has said : *Living political constitutions must be Darwinian in structure and practice.*

According to Dicey, *the constitution is that body of rules which directly or indirectly define and regulate the use and distribution of the power of a state.* Dr. Finer says, *The system of the fundamental institution is the constitution.* In Wheare's view, the constitution is *the body of rules which regulate the ends for which the organs and through which Government power is exercised.* Lord Bryce says that the constitution is *the aggregate of laws and customs under which the life of the state goes on.*

It is to be realized that the constitution is a legal concept and has a legal significance. Secondly, in all countries the constitution is held as inviolable because it is indispensable for the development of the state. Thirdly, the constitution of a state is not permanent and unchangeable. The change of government may bring a change of the constitution. Fourthly, the chief purpose of the constitution is to locate the power of the various organs of the government and thus to present on the whole the structure of the administrative system. Dr. Finer, therefore, observes, *A constitution is the autobiography of power relationship.*

1.2. Classifications of Constitutions

Constitutions may be of various classes. Of these main are (a) written and unwritten constitutions, and (b) flexible and rigid constitutions.

A. Written and Unwritten Constitutions

The practice of dividing constitutions into written and unwritten ones is quite old. When the fundamental principles of the administrative system are kept written in a document it is said to be a written constitution. Gettell says, *A written constitution is one in which most of the fundamental principles of governmental organization are contained in a formal written instrument or instruments deliberately created.* Constitutions

of states like India, the United States and the Soviet Union are written.

A constitution is an written one when, Dr. Finer says, the lawmakers do not spell out and announce the constitution as the administrative method and when, as a result, the administrative law cannot be distinguished from other laws by any external method. The constitution of Britain is the sole example in modern times of an unwritten constitution. Thus, in Finer's view, certain requisites, found in written constitutions, are absent in the unwritten constitutions. For example, it is nowhere to be found in writing that the British Prime Minister will choose the other ministers. Secondly, in the unwritten constitution no distinction is usually maintained between ordinary law and constitutional law. In other words, both these types of laws are passed in the same manner in the Parliament.

We have noticed that Tocqueville has said that the constitution of Britain does not exist. But it is incorrect to suppose that Britain does not have a constitution, as it has no written constitution. Although the administrative rules are not written in one place, actually they are there scattered in innumerable documents, writs and customs. Moreover, scholars like Bagehot, Dicey, May and Jennings have taken great pains to categorize the administrative usages and have analyzed and interpreted them. So the English constitution, though unwritten, is not indeterminate. For, most of its subjects are contained in a host of charters, documents and annotations. Yet it may be said that the British constitution is mostly unwritten.

We can now distinguish between the written and unwritten constitutions in the light of the above discussion. *In the first place*, almost everything is written in a written constitution, and it is not so in an unwritten constitution. But this difference is not very decisive and important. The constitution of the U.S.A. is written but all details of subjects like the election of the President and the political parties are not to be found in writing. *Secondly*, the legislators declare the written constitution as constitutional law and executive executes it as such. But the unwritten constitution cannot be regarded as law in the absence of precise, unequivocal regulations. *Thirdly*, some scholars try to make a

Distinction between
written and unwritten
constitution

difference between written and unwritten constitutions by telling us that the written constitutions are stable and definite, while the unwritten ones are indefinite and flexible. This is, however, not fully correct. The constitution of Britain, though unwritten, is neither fragile nor indefinite. Moreover, the respect of the British people for their constitution can hardly be doubted. In fact, the merits of a constitution are in its stability, definiteness and flexibility. The British constitution is as much definite, as much stable and flexible as any other in the world.

Some believe that the constitution of a federal type of government should be written. But there is no reason to think that a constitution will be of a high order if it is written. No constitution can be completely written or completely unwritten. So the terms *largely written* and *largely scattered* should be used instead of written and unwritten.

Merits and Demerits of Written and Unwritten Constitutions

Written and Unwritten Constitutions have their merits and demerits.

The major merit of the written constitution is clearness and definiteness. The written constitutions are drafted with care and deliberation. So here the possibility of uncertainty about its meaning is less than the customs and usages of unwritten constitutions. Secondly, the written constitution cannot be amended or bent easily by the legislature. So such constitution is more stable and steady. Thirdly, being difficult to twist, written constitution is free from the dangers of temporary popular passion.

Merits of
written
Constitution

The written constitution requires special provisions to be adopted for its amendment. The difficulty of amending written constitutions may prevent the introduction of needed changes. Secondly, as a result the healthy growth and progress of the political system may suffer.

Demerits

The unwritten constitution is considered to be flexible constitution. Being flexible it has the elements of elasticity and adaptability. Secondly, being alterable, unwritten constitutions are capable of be-

ing changed to make possible the adjustment to the changing conditions. Thirdly, since unwritten constitution is subject to alternation without much trouble this removes the temptation to disregard the constitution. It also offers opportunities for a legal means of satisfying popular aspiration. Fourthly, unwritten constitution is better suited to meet the emergencies. Lord Bryce remarks, *they can be stretched or bent so as to meet emergencies without breaking their framework; and when the emergency has passed, they slip back into their old form.*

Unwritten Constitutions have also elements of weakness. Unwritten constitutions are, in general, flexible in character. So they are unstable. Secondly, unwritten constitution does not enjoy higher legal authority than the ordinary statute. Thirdly, it is said that the unwritten constitution are not suited to Democracy. Fourthly, the unwritten constitutions allow a wider discretion to the executive than do those of the written type.

B. Flexible and Rigid Constitutions.

Lord Bryce has rejected the classification of constitution into written and unwritten. He insist on the classification of constitution into flexible and rigid ones. A constitution that can be changed or amended without resorting to any complex or troublesome method is a flexible constitution. A flexible constitution is amended easily. It is amended by the normal law making procedure in the Parliament. According to Lord Bryce, such constitutions are better adapted to changing situations, for *they can be stretched or bent, so as to meet emergencies without breaking their framework.* The constitution of England is flexible.

There is another type of constitution which cannot be amended or changed so smoothly, or easily. In changing such a constitution complex procedures are to be adopted and the procedures are clearly and definitely spelt out in the constitution. We called it a rigid constitution. If, for example, a two-thirds majority in the Parliament of a federal type of government followed up by the ratification of three-fourths of the states is required for the amendment of its constitution, the constitution can be called a rigid type. The constitution of the

U. S. A. is rigid. The flexible constitution is said to be dynamic and indefinite and the rigid constitution to be static and definite.

Strong states the fundamental difference of the two types thus : *The whole ground of difference here is whether the process of constitutional law making is or is not identical with the process of ordinary law making.* In Britain, just as the ordinary law is made when the majority of the members of the Parliament is obtained, so the constitution also can be amended simply by a majority vote in the Parliament. The American and British Constitutions are known as of rigid and flexible types respectively.

Merits and Demerits of Rigid and Flexible Constitutions

Rigid and flexible constitutions have their merits and demerits.

A rigid constitution is more stable and permanent than a flexible one. Secondly, so a rigid constitution cannot be changed or twisted easily by the people in power to satisfy their interest. So the legislative majority cannot amend the rigid constitution frequently.

Merits of rigid
Constitution.

Thirdly, rigid constitution enjoys sanctity for its stability. Fourthly, the rigid constitution, being written, provides the rights of the citizen specifically. This gives the citizens opportunities to seek constitutional remedies in case those rights are encroached. Fifthly, it is believed that the rights and interests of the minorities are better secured in a rigid constitution.

But rigid constitution is not without defects. In the first place, a rigid constitution cannot be changed quickly even if circumstances so demand. So a rigid constitution fails to keep pace with changing conditions. Secondly, since rigid constitution cannot be amended

Demerits

lawfully as and when needed, a trend to change it by extra-constitutional means may develop.

This happened in U.S.A. where the purposes of constitutional amendment are fulfilled by the judicial interpretation of the constitution. Thirdly, a rigid constitution cannot be changed lawfully to keep pace with the changing social, political and economic conditions. This may lead to revolution. Macaulay points out, *the great cause of revolutions is this : that while nations move onward, constitutions stand still.* Finally, a rigid constitution is not suited to accommodate the desired reforms.

A flexible constitution has certain advantages. It can be easily

changed or stretched to meet the changing conditions and emergencies.

Merits of Flexible Constitution Secondly, a flexible constitution is elastic enough to afford a legal means of satisfying the popular demands. Thirdly, flexible constitution is capable to keep pace with the changing conditions of a dynamic society. Lastly, if the constitution is flexible the people may not be forced to adopt the extra-constitutional means for the change of the constitution.

Demerits A Flexible Constitution is subject to easy amendment. So such constitution may be easily utilised by the politicians for their interest. Secondly, flexible constitutions are less stable and hence they enjoy less prestige. Thirdly, it is believed that they cannot protect the rights of the people and safeguard the interest of the minority community. A constitution which can be easily altered by numerical majority of the Legislature may easily threaten or destroy the rights of the people or the interest of the minority.

Without going into the detailed discussion of the comparative merits and demerits of the rigid and flexible constitutions, it is possible to say that the reason for making the constitution of America a rigid one is that the framers thought it would guarantee the interests of the federated states and the minorities. Professor Laski, however, thinks that neither a too rigid nor a too flexible constitution is desirable.

1.3. Difference Between Rigid and Flexible Constitutions

Lowell believes that the difference between rigid and flexible constitutions is one of degree and quantity, and not of kind and quality. In other words, this classification, as Lowell understands it, is not based on any fundamental or qualitative difference between the two types. This can be shown by an analysis of these two types of constitution. Of the many amendments to the American constitution so far made, only 23 have been made in the complex procedure laid down in the constitution and many more have been made through customary ways and court decisions. In America, therefore, use of usage and custom and court decisions has been made wherever amendment is found difficult through ways laid down in the constitution. Thus, in effect, the American constitution becomes less rigid than theoretically it is. Munro has even gone so far as to say that the constitution of America is not less flexible than that of Britain.

On the other hand, the British constitution though flexible by and large, has a very firm basis and is not as pliable as it is often made out to be. It cannot be changed or amended as often as one wishes. Any amendment has a considerably long background of discussion, and conflict of opinions. The British Parliament cannot disregard the British public opinion, particularly in view of the fact that the British are by nature a conservative people.

It is, therefore, seen that no rigid constitution is rigid enough to defy attempts to change it and no flexible constitution is so pliable that it can be changed at will. Thus it is more sensible and reasonable to say that this constitution is more or less flexible than that. For, in practice, there is no fundamental difference between the so-called rigid and flexible constitutions. They differ in quantity and degree only, and not in kind.

1.4. Examination of Flexibility of Few Constitutions

It is worthwhile now to consider how much flexible or rigid are the constitutions of the U. S. A., Great Britain, the Soviet Union and India.

A. *The United States of America*

The constitution of the U.S.A. is regarded as a typical example of the rigid constitution. For, the procedure of amending the constitution as laid down in the constitution itself is rather complex and difficult. In order to amend the constitution there, the move shall have to be passed first by a two-thirds majority of the Congress or by a similar majority in the National Convention of the State legislatures. After having been passed either in the Congress or in the National Convention, the move for amendment shall have to be ratified by a three-fourths majority of the State Assemblies or by a similar majority of votes in special Conventions of the States. Thus amending the U.S. Constitution in this procedure is difficult. But, as we have seen already, the American constitution has been amended more by customary ways and court decisions than by procedures prescribed by the constitution. So the American constitution is far less rigid than it appears to be.

B. *Britain*

Theoretically, the constitution of Britain is quite flexible. Like any ordinary law, the proposal for amendment is first passed by a majority vote in one House of the Parliament and then sent to the

other. If it is passed there too, it gets royal assent. In practice, however, the matters are not so easy. For the influence exerted by public opinion, the hard discussion that turns round the proposed amendment in the Parliament beforehand and the crosswinds of opinions in and outside the government, make things far less smooth than they are thought to be.

C. The U.S.S.R

The constitution of the Soviet Union is theoretically rigid but not as rigid as that of the U.S.A. Here the constitution is amended by a two-third majority of both the Houses of the Supreme Soviet, i.e., the Federal Legislature. According to Laski, a constitution should be amended by a two-thirds majority. The Soviet constitution answers to his prescription. It is neither too rigid, nor too flexible ; it stands midway.

D. Indian Republic

The Indian constitution is usually said to be rigid. But in practice it is not really rigid. There are three ways in which the constitution of India can be amended : (i) Sometimes amendments are made by a simple majority in the Union Parliament ; (ii) Sometimes the two-thirds majority of the present and voting members of the Union Parliament is necessary ; (iii) In some other cases the consent of at least half of the federated states are needed together with the two-thirds majority of the present and voting members of the Parliament. In practice, the easier methods are more frequently employed than the others and the fact that the constitution has been amended about 52 times during the last 35 years amply shows that the constitution of India also, like that of the Soviet Union lies somewhere midway between rigid and flexible.

1.5. Methods of Amendment of the Constitution of India

In the federal form of government the constitution should always be rigid and written. If it is not written, there will be frequent conflict between State and Union Governments over division of powers. The constitution should be rigid enough to prevent any government—Union or State, from overstepping the bounds of power and interfering with the jurisdiction of the other.

We have said before that Indian constitution is partly rigid and partly flexible. Some parts of it can be amended by the ordinary law-making process, while in amending some other parts special

procedure is needed. But the flexible articles of the constitution of India are few in number and are of lesser importance. The constitution of India, by and large, can be regarded as rigid.

The methods of amending the constitution of India

1. There are some subjects which can be amended very easily, as the British constitution is amended. An ordinary bill, in order to become a law, must be passed by a majority in both the Houses of the Parliament and must get the President's assent. Some articles of our constitution can be amended in the way in which ordinary bills are passed. Among these easily amendable subjects are election rules, constitution of the Union territories, allocation of election areas, administration for the backward and scheduled castes and tribes.

2. There are certain other articles which can be amended in this ordinary law-making process but that must be preceded by request, recommendation or consent of the Legislature of the state concerned. It has got to be remembered that our constitution does not allow the federated states to frame their constitutions or amend the relevant portions of the existing constitution. So it is natural that if the boundary of a state is to be changed or the boundaries of two or more states are to be readjusted the suggestion of the states concerned is to be taken. Suggestion does not necessarily mean consent. And if the state does not give its consent the Union Parliament can carry out the proposed readjustment. The Parliament has this power with regard to any state, except Jammu and Kashmir.

3. In certain respects the Legislature of a state can amend a part of the constitution. If the Legislative Assembly of a state resolves by a two-third majority that the Legislative Council of the state be abolished or a Legislative Council be set up in that state, the Union Parliament can by an ordinary majority vote pass a law abolishing or setting up the Legislative Council in that state. The constitution states that such a change cannot be called an amendment.¹ In 1969 the West Bengal Legislative Assembly passed the

¹Of course, the Parliament is not bound to comply with the request of a State Assembly. In 1954 the Bombay State Legislative Assembly passed a

resolution for the abolition of the Legislative Council and the Council was abolished accordingly. The above alterations are not regarded as amendment of the constitution.

Article 368 mentions two methods by which the constitution can be amended.

4. In the first method the state legislatures have no part to play. An amendment of the constitution may be initiated only by the introduction of a bill in either House of Parliament. When the bill is passed in each House by more than 50 per cent of the total membership of that House and by a majority of not less than two-thirds of the members of that house present and voting, it will be sent to the President for his assent. The President will not have the right to send the bill back for reconsideration, and as the practice goes, he cannot withhold his assent. After the President's assent is obtained, the bill for amendment becomes a law.

Amendment by
Parliament without
state legislature's
consent

5. In certain other respects the passing of amendment bill is not enough and the amendment shall also require to be ratified by the Legislatures of not less than one-half of the states by resolutions to that effect. Among the subjects that are amended in this manner are the election of the President, the extent of the executive power of the Union and the States, the Supreme Court and the High Courts and the representation of the States in Parliament.

Amendment to be
ratified by the States

Whereas during its history of long two hundred years the American constitution has been amended only 23 times, the constitution of India has been amended 52 times during the last thirty-five years. Sometimes, to cope with changing circumstances, amendments become necessary. The purpose of the constitution is to facilitate the steps towards progress and development. So amendments are no offence by themselves. But if we change the

resolution for the abolition of State Legislative Council but the Parliament did not make any law on that count till 1959. When in 1960, the Bombay State was divided into Maharashtra and Gujarat the former had two House, while the latter had one. In 1957 again the Parliament arranged for two Houses for the newly constituted state of Madhya Pradesh, but that state did not accept it.

articles of the constitution every now and then, the inviolability and sanctity of the constitution are surely affected and the constitution becomes unduly pliable. Frequent amendments have been possible in India because of the preponderance of a single party at the Centre and the States for a long time.

1.6. Contents and Qualities of a Good Constitution

The discussion about what should be the contents and qualities of a good constitution will surely help us to form an idea about what a constitution should be like, although there has as yet been no agreement among scholars and experts on this point.

Contents of a good constitution

The contents of a good constitution depends largely on its purpose. Scholars have not been certain whether the constitution is the fountain of governmental authority or whether it is the safeguard of individual liberties. This explains why the contents of the constitutions of different countries differ considerably. Some say that the main purpose of a constitution should be the development of individuality through an adjustment between individual liberty and governmental authority. We will now discuss the contents of the constitution in this light.

In the first place, the constitution must have a Preamble at the beginning in which the aims, philosophy and purpose of the constitution should be set down. The Preamble makes it possible and easier to interpret the articles properly.

Secondly, in order to prevent the misuse of power, the powers of the executive and the modes of its election must be written in precise terms. The constitution must not only set down the powers of the Government but also mention elaborately what the Government is not entitled to do. It will thus set the limits on the governmental interference clearly.

Thirdly, a good constitution should contain the details of the powers and jurisdiction and modes of election or nomination of the members of the legislature and the judiciary.

Fourthly, for efficient administration, the distribution of powers of and the mutual relations among the organs of the Government should also be clearly and definitely spelt out in the constitution.

Fifthly, the rights of the individuals and the relation between

individuals and the Government should be enumerated in the constitution.

Sixthly, the principles and manners of recruitment in different Government Services should be clearly written.

Finally, the constitution should also contain the procedure of amendment of the constitution.

Qualities of a good constitution

The first quality of a good constitution—whether written or unwritten—is its clarity. By clarity we mean the definiteness of meaning, clarity of language and interpretation. If a constitution has this quality it does not usually become a subject of controversy. There should not be any ambiguity in the language of the constitution, any equivocal word or expression. The U. S. constitution is often regarded as an ideal constitution. But even that constitution contains words and expressions which the Supreme Court interpreted differently at different times.

Secondly, the constitution should not be made unnecessarily wide and exhaustive. It should contain the fundamental and basic principles and subjects. It need not contain the hair-splitting details. Prof. Wheare says : *The essential characteristic of the ideally best form of constitution is that it should be as short as possible.* The Indian constitution has 395 articles and 9 Schedules while the American constitution has only 7 articles. A constitution that is too exhaustive is also unnecessarily complex.

Thirdly, a good constitution should be neither too rigid nor too flexible. A too flexible constitution becomes unstable, while a too rigid constitution fails to cope with changing circumstances. So a good constitution should be midway between rigidity and flexibility, as prescribed by Laski. The constitution of the U. S. S. R. is a good one from this point of view.

Fourthly, some critics think that a good constitution should be written. For unwritten constitutions tend to be more vague and ambiguous than written ones.

Fifthly, some scholars emphasize the necessity of putting down elaborately the fundamental rights of the people. If the fundamental rights are written precisely in the constitutional law, it is difficult for the Government to override them, and it is possible for the people

to seek redress if they are overridden. On this point, however, scholars are not unanimous. Prof. Wheare is against rights being written in the constitution, though he favours a good system of law to safeguard the rights.

1.7. Nature and Characteristics of Indian Constitution

A Constituent Assembly was formed for the framing of the constitution of India. The constitution was approved of 26 November, 1949 and *it came into force from 26th January, 1950*. The characteristic of different other constitutions that were considered suitable for our country's Government were incorporated in our constitution. Thus our constitution is equipped with choicest features of other constitutions.

The first thing that strikes us about our constitution is its length. The Indian constitution is the longest written constitution of the world. There are in the American constitution only 7 articles, 24 sub-articles and about 7000 words. In the Indian constitution there were originally 395 articles and 9 Schedules. Now, after 49 amendments, the size of our constitution has become even longer.

Several reasons have been put forward for this lengthiness of the Indian constitution. The details of the administrative system are provided in the Indian constitution. Secondly, the framers of the constitution have incorporated into its body the better parts of the world's good constitutions with a view to making it an ideal one. Thirdly, the lengthiness of our constitution is only too obvious in view of the vastness of our country and the variety of our problems. Fourthly, the Indian constitution contains not only the constitution of the Union but also of the federated states. And, obviously the distribution of jurisdiction of authority and relations between the Centre and the States are set down in considerable detail.

The second characteristic of the constitution of India is that it declares our government to be a Parliamentary or Cabinet system. Our cabinet is collectively responsible to the Parliament. The Parliament makes law, grants money to the government, imposes taxes and determines administrative policies. Though the President is at the head of State of India, he is a mere titular head and the Parliament

holds the real power. Here we have drawn on the British constitution.

Thirdly, the constitution of India has been framed on the basis of a federal structure. We have a government at the Centre and one each for every State. There is a clear demarcation of jurisdiction between the State Governments and the Union Government. Subjects not specified are dealt with by the Union Government. The federal structure of our Government has been so constructed that in times of emergency it can without trouble be turned into a Unitary Government.

Fourthly, the Preamble to the constitution declares India to be a Sovereign Socialist Secular Democratic Republic. India is independent and sovereign. The equality of all people, their liberty and political rights have been guaranteed under the constitution. The country is ruled not by any king, but by the elected representatives of the people. India thus is a Sovereign Democratic Republic. It is moreover stated in the Preamble that our political aim will be socialism, that India will be a secular state. India thus is a Sovereign Socialist Secular Democratic Republican State.

Fifthly, in Part IV of the constitution of India, certain Directive Principles of State Policy have been enunciated. It is the duty of the State to follow these principles both in the matter of administration and the making of laws. These principles embody the object of the State under the Republican Constitution, namely, that India is to be a Welfare State. But the people will have no legal right to demand that these principles must be implemented.

Sixthly, the constitution of India embodies certain Fundamental Rights for the citizens to enjoy. These rights are the basis of individual liberty and democratic freedom. While the fundamental rights of countries seek to establish that all are equal politically before law, the fundamental rights of our constitution seek to establish social equality as well.

Seventhly, our constitution recognizes uni-citizenship. This

means that our constitution, though federal, provides for one citizenship only—the citizenship of India. In some Federal States (as in the cases of the U.S.A. and Switzerland), a Single citizenship dual citizenship is granted namely, national citizenship and citizenship of the State to which a person belongs (i.e., where he is born or where he resides).

Eighthly, the Indian constitution is partly rigid and partly flexible. Written constitutions are usually rigid. But the Indian constitution has imparted flexibility to a written Federal Constitution. In fact, there is hardly a provision of the constitution that is unamendable. In some cases the ordinary processes of law making are adequate to amend a part of the constitution. In some others the ratification by the Legislatures is required. Professor Wheare says that *this variety in the amending process is wise but rarely found*.

Ninthly, our constitution declares the State of India to be a Secular State. Protestantism has been declared as the State religion in Britain and Islam in Pakistan. These religions get money grants from their Governments. In India we do not have a State religion and the Government does not patronize any particular religion. Nor does any religion or sect thrive on Government money.

Tenthly, though our constitution does not favour any religion it guarantees the interests of several castes and tribes which are minorities and lag behind in social and economic development. In very few other constitutions, minorities have thus been safeguarded.

Finally, there have not yet grown up in our country usages and constitutional conventions. Even in countries whose constitutions are written, a host of unwritten conventions grow up in course of time. And these conventions receive as much respect as the written constitution itself. But since we do not have any conventions of our own (because ours is comparatively a new constitution) we have drawn heavily on the British constitutional conventions. As Sir Ivor Jennings has said—*The machinery of Government is essentially British and the whole collection of British constitutional conventions has apparently been incorporated as conventions*.

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Exercise

1. What do you mean by Constitution ? (1.1)
2. Define a Constitution. How would you classify Constitution ? (1.1 and 1.2) [H. S. C. '80 and T. S. B. '81]
3. Distinguish between (a) Written and Unwritten and (b) Rigid and Flexible Constitutions. (1.2 and 1.3) [T. S. B. '79]
4. What is meant by the term 'Constitution' ? Explain with suitable examples the distinction between written and unwritten constitutions. (1.1 and 1.2) [H. S. C. '82]
5. Discuss the merits and demerits of rigid and flexible constitutions indicating their differences. (1.2) [H. S. C. '78]
6. Distinguish between the rigid and flexible constitutions and discuss the merits and demerits of Rigid Constitution. (1.1 and 1.2) [H. S. C. '84]
7. What should be the contents and qualities of a good constitution ? (1.6)
8. Is the constitution of India rigid or flexible ? (1.4 and 1.5)
9. "Indian constitution is both rigid and flexible"—Explain. (1.4 and 1.5) [T. S. B. '82]
10. Examine the nature and characteristics of the Constitution of India. (1.7) [H. S. C. '78, '83 and '85]
11. Discuss the salient features of the Indian Constitution. (1.7) [H. S. C. '81 and T. S. B. '79]
12. India is a Sovereign Socialist Secular Democratic Republic—Discuss. (1.7) [T. S. B. '79]

Objective-type Questions

1. Choose the correct answers from the brackets and tick them :
(a) A (Rigid, Flexible) constitution has the ability to adapt to changing conditions.

- (b) In India there is (Presidential, *Cabinet*) form of Government.
- (c) India is a (Unitary, *Federal*) State. [H. S. C. '80]
- (d) India is a (*Secular*, Religious) State
- (e) The Indian Constitution recognizes (*single-citizenship*, double-citizenship)
- (f) The Constitution of India was adopted by the Constituent Assembly on (26th November, 1949, 26th January 1950).
- (g) The Constitution of India was put into operation on the (26-11-49, 26-1-50, 15-8-49) [H. S. C. '79]
- (h) There are (5, 6, 7) Fundamental Rights in the Constitution of India. [H. S. C. '79]

2. Fill in the gaps :

- (a) India is a Sovereign ——— Republic.
- (b) Part ——— of the Indian Constitution describes the Directive Principles of State Policy.
- (c) The Constituent Assembly approved of the Constitution of India on ———.
- (d) The Constitution of India came into force from ———.

"In a federal constitution the powers of government are divided between the government for the whole country and governments for parts of the country in such a way that each government is legally independent within its sphere."

—K. C. Wheare

CHAPTER TWO

Forms of Government

2-1. Meaning of the term Government

The term *Government* has been used in a number of senses. Sometimes *Government* is taken to mean the administrative system of a state. But in Political Science the term *Government* should mean the administrative machinery. The state is a concept. We can only form an idea of it in our minds. In practice the state's directions and will are expressed through the Government. The state is one of the many institutions of the society. How are the citizens to know what the will of the state is? It is through the laws that the state's will is known. In other words, laws are the orders of the state. The idea and purpose behind the laws are by implication the purpose and will of the state. If anybody breaks the law it means that he disobeys the state, that he does not act in accordance with the directions of the state. The Government makes laws and punishes the breakers of laws. The Government comprises the Legislature, the Chief Executive (King or President), the Cabinet, the Bureaucracy, the Police and the Judiciary. In fact, the Government is in control

of the state. Thus while the state is an idea the Government is a concrete institution.

With the change of the society, the character of the state also has changed from time to time. Thus we had *Slave State* and *Feudal State* in the past, and we have the *Capitalist State* and the *Socialist State* now. Likewise, there are different kinds of Governments in different states. Of course, the governments have certain common features. All Governments make laws, execute them, and punish the law-breakers. But nevertheless there are certain structural difference between them. The classification of Government can be made on the basis of those differences.

2-2. Classification of Government : Aristotle's Classification

About 2500 years ago, the great Greek philosopher, Aristotle made a classification of Government in his famous treatise *Politics*.

Classification based on	In classifying government he had two standards in view—number and purpose. Aristotle
(i) how many rule	classified government according to the numerical strength of the government, i.e., how
(ii) natural or perverted form	many wielded governmental power, and according to the purpose for which the government was being run.

From the point of view of number, Aristotle was concerned with how many people held the power. From the point of view of purpose, he wanted to know in whose interest was this state power wielded.

According to Aristotle, a Government which seeks to serve the interests of all is a *natural* form of government and one which represents the narrow self-interest of a few, is a *perverted* form. A

Monarchy : Tyranny ;	Government run by a single person is a
Aristocracy : Oligarchy	Monarchy, according to Aristotle and if the
Polity : Democracy	Monarch rules autocratically and in his own

interest it becomes a Tyranny. If the Government is in the hands of a few persons it is an Aristocracy. And if this Aristocracy rules in self-interest it becomes an Oligarchy. When a large number of people are in control of the Government and when they rule in the interest of many, it is, according to Aristotle, a Polity. If a disorderly mob hold the government and rule in disregard of laws, Aristotle calls it a Democracy.

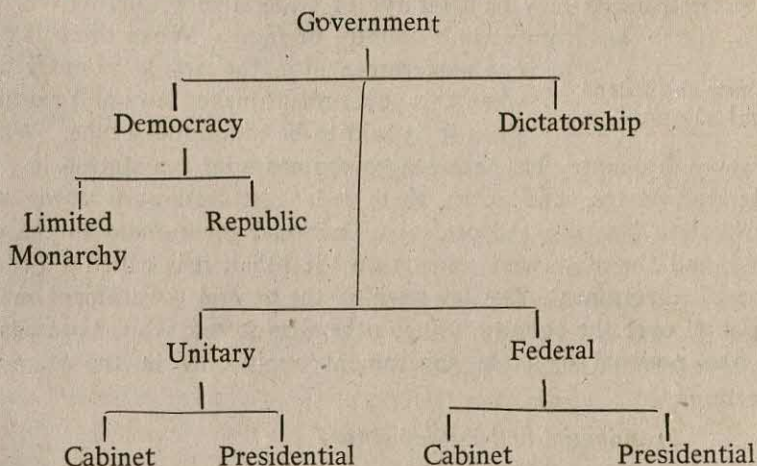
Aristotle's classification is given below in a tabular form :

Power is in the hands of	Natural Form (in the interest of all)	Perverted Form (in the interest of a few)
One	Monarchy	Tyranny
A few	Aristocracy	Oligarchy
Many	Polity	Democracy

2.3. Modern Classification

Aristotle's classification was in vogue in the medieval age. But in modern times scholars have found it defective and have rejected it. In modern times the real character of a government is not known from mere structure. For example, in Britain a King or a Queen is at the head of the government. But the British government is not a Monarchy. Aristotle's is a quantitative classification and the qualities of government are not known from it. The form of Government which Aristotle called Polity is now known as a Democracy.

Modern scholars like Marriott and Leacock have classified governments differently. The modern governments are classified in the following manner :



The Modern Governments fall under three broad classifications, namely, (i) Democracy and Dictatorship; (ii) Unitary and Federal and (iii) Presidential and Parliamentary or Cabinet.

A. *Democracy and Dictatorship*

The Government in which the sovereign power resides in the people is a Democracy. In a Democracy the will of the people prevails and the administration is run in pursuance of public opinion. In a Dictatorship governmental power is in the hands of a single person or in the hands of a single party.

There are two types of Democracy—Limited Monarchy and Republic. If the government is in the hands of a single person and if governmental power is hereditary; this form of government is called Monarchy. Monarchy has two forms—Absolute and Limited. The days of absolute monarchy are past. The modern age is to be marked by popular consciousness that absolute monarchy is unimaginable now. In limited monarchy there is a king at the head of the government but he has little real power. The ministers govern in his name. In limited monarchy the king reigns, but the cabinet rules. The British Queen Elizabeth II is a limited monarch. When there is no king or queen at the head of the government, and when the representatives of the people wield power directly or indirectly, it is called a Republic.

B. *Unitary and Federal*

Governments may be Unitary or Federal according as whether there is one government in a country or more. When there is only one government for the whole country and when this government makes laws and executes them it is said to be of a unitary type. When, however, a country has separate governments for the states—i.e., the federated states, and when there is a distribution of power and jurisdiction between the central or national government in the one hand, and the state governments on the other, it is called a Federal type of government. The laws which the central government makes apply all over the country, unless otherwise stated, while laws passed by the regional or state government apply only in the states in question.¹

C. *Presidential and Parliamentary*

A government in which the real power is exercised by the

1. A more detailed discussion about Unitary and Federal forms will be found later in this chapter.

cabinet and this cabinet in its turn is responsible to the sovereign parliament, i.e., the elected representatives of the people, this is known as the Parliamentary or Cabinet form of government. If real power, on the other hand, is in the hands of an elected President who is not a member of the parliament and who is not responsible to it, this is known as a Presidential form of government.

2-4. Unitary Government

We have already seen that in the Unitary form of government all executive and legislative powers are exercised by one central government and are distributed in all the parts of the country. There are separate departments of the same government but not separate governments as found in the Federal form.

What is a Unitary system ?

The Unitary government is also called the National government or central government. C. F. Strong, discussing the Unitary government says, *The essence of unitary state is that the power of the central government is unrestrained, for, the constitution does not admit any other law making body than the central one.* In other words, in a unitary government it is not merely that the executive power is concentrated in one centre, but the law making power also is. The authority of the Union Parliament stretches over the whole of the state. Dicey calls it *the habitual exercise of supreme legislative authority by one central power.*

In the unitary government the existence of local institution and departments is not ruled out. In practice, however, self-governing institutions are recognized in every unitary government. Even certain law making departments may be there. But the point is that such self-governing departments will always act under the control of the union government. They are not in possession of parallel authority and are subject to the central government. Thus the union executive and the union parliament have the highest executive and legislative powers respectively in the country.

There is unitary form of government in countries like Britain, France, Norway, Denmark and New Zealand. In fact, one of the chief characteristics of the British government is its unitary form.

In these unitary governments there are local departments which have been instituted to decentralize administration but they are not recognized as federated governments. The Central or National government in these countries possesses the supreme power and the central legislature is the only sovereign law making body.

Merits of the Unitary Government

Like the other forms of government, the Unitary form also has its merits and demerits. The first merit of this form of government is that in it there is only one set of rules and laws for the whole country and also, one government for the entire state. This helps to bring uniformity in laws and administration. There is seldom any possibility of conflict between laws made by different governments. It eliminates the chance of undue complexities in administration.

Uniformity in laws
and administration

country and also, one government for the
entire state. This helps to bring uniformity in
laws and administration. There is seldom any
possibility of conflict between laws made by different governments.
It eliminates the chance of undue complexities in administration.

Secondly, as there is only one authority or one centre of power in the country the unitary form of government is better suited to cope with the emergencies and crisis.

Better suited to
cope with crisis

in the country the unitary form of government
is better suited to cope with the emergencies
and crisis.

Thirdly, the allegiance of the people is not divided and this makes for unity and integration. In a Unitary system the fissiparous tendencies hardly coagulate and raise their heads.

Unity and integration

makes for unity and integration. In a Unitary
system the fissiparous tendencies hardly coagu-
late and raise their heads.

Fourthly, the flexibility of the Unitary system enable the government to adapt itself well to the changing circumstances.

Flexibility and economy

enable the gov-
ernment to adapt itself well to the changing
circumstances.

Finally, this system is far less expensive than the Federal system.

Demerits of the Unitary Government

The liberal principle which declares the necessity and advisability of allowing local state governments for the welfare of people of all regions is ignored in the unitary system. In a unitary system the people of the different regions do not have the right to form their own governments and so local languages, cultures and traditions cannot develop well and this in course of time may engender separatist tendencies.

Separatist

tendencies likely

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ratist tendencies.

Secondly, the unitary system may work in a small state but it

cannot work well in a large state. If there is only the central Government in a large state it is impossible for it to make proper arrangements according to the needs of the people of every region. If India had a unitary system it would not have been possible for the central Government to take immediate steps in the remote corner of the country at the hour of need.

Thirdly, centralized power tends to make the Government autocratic and dictatorial and creates dangerous situations for popular rights and liberty. Laski, therefore, thinks it proper that state power should be divided and decentralized.

2-5. Federal form of Government

The Federal form of Governments is very important for the students of political science and constitution. The federal form of Government is to be found in states like the U. S. A., Canada, Mexico, the USSR, Brazil, India and Australia. But before we enter into a discussion on the federal form of Government, we must know what this form of Government means.

What is a Federation ?

When a state is divided for the convenience of administration or for some other reason into several federated states and a union Government is there at the centre and separate governments are created in each region or state, the system is known a Federal system of Government. Sometimes, again, several small free states may unite for some reason under a central Government and form a Federal Government. In a federal form of Government different nationalities may come under one state in spite of geographical, social, ethical, religious and cultural differences. In the words of *Finer*, *A federal state is one in which part of the authority and power is vested in the local while another part is vested in a central institution deliberately constituted by an association of the local areas.*

Distribution of powers

The chief characteristic of the federal system is the distribution of power between the Centre and the States. The powers of the Government under such a system are distributed between the Centre and the States in such a manner as to vest the central Government with matters of national interest and to leave local matters with the state Governments. In their respective jurisdictions the Union and

State Governments act more or less independently. Professor Wheare says: *By the federal principle I mean the method of dividing powers so that the general and regional Governments are each within a sphere, co-ordinate and independent.*

In the distribution of powers between the Centre and the State there is no uniform principle. Principles and modes vary from federation to federation. In some federations the Residuary powers are left to the federated states to deal with. In some others, on the contrary, the powers of the states are fixed and the Union exercises power over the residuary matters. In the constitution of India and Canada the residuary powers has been vested in the Union. Moreover, if there is any conflict between the Union and the States about the exercise of power under the concurrent list, the Indian Constitution provides that the authority of the Union will prevail.¹

Whatever the case may be, the Union and the States theoretically enjoy independence in respect of authority and powers, except in certain matter of national importance. According to Dicey, federalism means the distribution of the powers of the state among a number of co-ordinate bodies each originating in and controlled by the constitution.

Conditions and Processes of Formation of a Federation

According to Dicey, a federal state is a political contrivance intended to reconcile national unity with the maintenance of 'state-rights'. Sometimes among different nationalities occupying separate but adjacent territories, a national unity is noticed and these nationalities may wish to be united without losing their characteristics. In such cases the political solution is the formation of a federation. It is only by forming a federation that such apparently contradictory desires may be reconciled. The nationalities would have formed a Unitary Government if they had no desire to maintain their separate rights. On the other hand, they would have organized themselves into separate states if they had no desire to maintain national unity. So when the question is one of reconciling *national unity with the maintenance of state rights* a federation is the obvious answer.

1. For the distribution of powers three lists are prepared—the Union list—containing matters within the power of Union, the State list—matters for the State to control and the Concurrent list—matters over which Union and States have concurrent powers. Subjects not mentioned in these three lists are called Residuary Powers.

Two distinct processes are usually adopted in the formation of a federation. In some cases a few small free states may, for their economic development and for maintaining their existence or owing to their being won over by another state, combine and form one big state. Here the process of centralization operates in forming a Federal State. An example of a federation formed in this way is the United States of America. Sometimes again, a big state may be divided for the convenience of administration into several regions, each under a more or less independent government, but under the overall control of the central government. Here the federation is formed through the process of decentralization, an example being Canada.

Two processes of formation

characteristics of a federation

In the federal form of government a few characteristics are easily noticeable. First, two types of government exist side by side in the federal system—the Union or federal government at the Centre and the state governments at the states.

Union and State Governments

Secondly, a federal government emerges through constitutional provisions. Separate spheres and jurisdictions of the central and state governments and distribution of powers between them are defined by the constitution, though the principles and distribution vary from federation to federation. In their respective sphere both the union government and the state governments are free and are not fettered with interferences except in a few unusual cases.

Governments by constitution

Thirdly, the constitution of a federation is usually written so that there may be clearly defined division of powers and spheres of work between the Centre and the federated states. According to Woodrow Wilson, a written constitution is highly necessary for a federation, if not indispensable.

Written Constitution

Fourthly, since both the federal and state governments originate and receive powers from the constitution, the undisputed supremacy of the constitution is another important characteristic of the federal system.

Supremacy of Constitution

Fifthly, there is an independent Federal Judiciary to see to it

that the constitution is not violated and that the powers and rights of the Centre and the federated states are safeguarded and exercised properly. The judges of this court should be dispassionate and neutral and should have supreme authority.

Supremacy of the
Judiciary

This court will adjudicate cases arising out of the constitutional validity of laws,

In other words, a federation must recognize the supremacy of the Judiciary. This highest or supreme Federal Court (in the case of India it is the Supreme Court) is at once a federal court, a court of appeal and a guardian of the constitution.

The sixth characteristic of the federal system is that the constitution is usually of a rigid type. The rigidity of the constitution is intended to prevent the union and units from changing the constitution flippantly and at will to grab more power.

Rigid Constitution

intended to prevent the union and units from changing the constitution flippantly and at

Finally, for the equitable representation of the federated states the existence of a second chamber in the Parliament is considered necessary in a federal system. Bicameralism can guarantee the representation of the federated states or units.

Bi-cameralism

necessary in a federal system. Bicameralism can guarantee the representation of the federated states or units.

On the basis of these characteristics Wheare likes to divide the federal governments into two classes—federal and quasi-federal. In some federal systems the structure is that of a federation though the elements or characteristics of a federation are conspicuous only by their absence. From this point of view India and the Soviet Union are generally regarded as quasi-federal states.

Conditions of success of a Federation

Whether a federation can at all be formed or whether it will prove successful depends on several objective conditions. A federation in order to succeed or to prove stable must satisfy these conditions.

1. In the first place, the units must have a desire to unite. Now, there may be several reasons or circumstances which inspire different regions to unite.

a. The first of these is geographical nearness. Geographical proximity very often grows in men a urge to unite. It is difficult to form a federation of geographically remote regions.

b. Another factor that is needed to unify separated regions is the possibility of and eager for economic development.

Desire for Unity

c. A third factor may be the need of self-defence against foreign aggression. Smaller states may find it difficult to hold their own against powerful enemies and this may prompt them to form a federation.

d. Unity of religious belief, language and culture sometimes prompt separated regions to combine without sacrificing their peculiarities and freedom.

e. Finally, we should also take note of national aspiration and consciousness.

2. The desire to unite is not, according to Dicey and Mill, enough to form a federation. The units willing to form a federation must be able to form it. Thus the capability of forming a federation is its second condition of success.

Capability to form a federation

This capability, again, depends on factors like uniformity of geographical expanse, population resources, economic stability, political ideal, and aspirations for educational improvement.

3. The third condition of success is that the units must combine without, as we have said above, sacrificing their separate entities. In other words, there will be desire for union, but not for unity.

4. Finally, there must be respect for and devotion to the laws without which no federation can succeed. As Dicey says, *A federal*

Respect for law

system can flourish only among the communities imbued with a legal spirit. For, the supremacy of constitutional law and the Judiciary must be established in the federation and the people of all the units must not only in general acquiesce in it but they must also respect the law as inviolable.

A federal system is possible and may succeed only when the above conditions are satisfied. But sometimes a unitary system may succeed under conditions exactly suited to the success of a federation and a federation may be formed successfully in spite of absence of some of the above conditions. So it may be presumed safely that these conditions are desirable for a federation but not absolutely indispensable.

2.6. Recent Centralizing Trends in Federal States

There are no hard and fast rules regarding the principles and ratio of the division of powers between the Union and the states in a

federation. In some cases the union is far stronger than the units and in other cases the union is not that strong. If in a federation, the union goes on increasing its power at the expense of the units, it may, at one time, be transformed into a unitary form. Generally, the foreign relations, the defence, currency, foreign trade, posts and telegraph remain within the jurisdiction of the Centre. The power of imposing major taxes too is in the hands of the Centre.

In recent years there is everywhere a tendency towards centralization of power in federation. In a planned economy, the powers and responsibilities regarding planning are all vested in the Union. This naturally makes the Union extremely powerful. It has therefore been said that planning is the D.D.T. of Federalism. A second factor in this centralization of power in a federation is the emergency created by wars and other eventualities. These often tend to make a federation dwindle and thus a unitary form can emerge. Thirdly, the Unions are enlarging their areas and jurisdictions of taxation everyday. This often makes the units depend on the Union in financial matters.

Thus in most federations the union is growing in power and the states are continually losing power and jurisdiction. It can be said that if these trends continue the federations will ultimately be turned into unitary Governments in essence, if not in form.

2-7. Merits and Demerits of a Federation

We have already enumerated the merits and demerits of a unitary system of Government. It will, however, be seen that the merits of the unitary system are the demerits of the federal system, while the demerits of the unitary system are the merits of a federation. Let us look at these points from the standpoint of a federation.

Merits of a Federal System

1. The first merit of a federation is that the units or federated states can without sacrificing their special characteristics and entities develop their material resources and register progress.

2. In a federation local self-government is guaranteed through the separate assemblies and governments of the federated states. This ensures the growth and development of local languages, literatures and cultures. This makes the people interested in the government activities.

3. A federal form of government is a suitable system in a state whose people are divided by geography, cultural diversity, religious difference and difference of language. In such a state a unitary system is hardly advantageous.

4. We can say with Dicey that when there is among the different nationalities of state an urge for separate national development and an urge for unity simultaneously, the only answer is a federation which can accommodate both.

5. In a federation social, economic or political experiments are possible. But such experiments are risky in a big unitary state in which the interest of a great multitude are involved.

6. The unitary system cannot always ensure good government, particularly when the country is quite a vast one. The federation by being aware of the local problems and by decentralizing administration, can guarantee good and efficient government.

7. In a federal system chances of governmental despotism are rare. For, the supremacy of the constitution and the judiciary can successfully forestall such unhappy possibilities.

Demerits of a Federal System

The demerits of the federal form of government must not be lost sight of, for they are quite considerable also.

1. The federal system is complex, weak and highly expensive. Owing to this complexity it is difficult to maintain uniformity or balance between the union and the units. The double set of government in a federation unnecessarily entails loss of time, energy and money.

2. Owing to the division of authority and responsibility and owing to the observance of formalities, quick decision is almost impossible in a federation. This may make things critical in times of war or other national emergencies.

3. A federation can succeed only by registering the supremacy of a impartial Federal Court. But a Federal Court is usually sympathetic towards the Union government and therefore, functioning in a non-partisan and dispassionate manner cannot be expected from Federal Judiciary.

4. The federated states and the Union are sometimes seen to formulate laws that are contrary and as a result confusion regarding individual rights and responsibilities often occur.

5. Generally, the constitution of a federation is made rigid. A rigid constitution cannot adapt itself to the changed circumstances and cannot cope with emergencies. This gives rise to the need of amending the constitution in non-constitutional ways. In the U.S.A. the constitution has been amended many times by the Supreme Court.

In spite of these demerits, it is the federal form of government that is better suited to a big state or a state composed of different nationalities. The modern age is an age of national aspirations. And only a federation can accommodate them. It is also to be noted that the two largest states of the world—the U. S. A. and the U.S.S.R.—have embraced federal form of governments.

2-8. Nature and Characteristics of Indian Federation

Before studying the nature and characteristics of the Indian Federation, we should, for the sake of convenience look at the general characteristics of a federation. In a Federation is a balance between unity and autonomy federation a balance is attempted between the unity of nation and the rights and autonomy of the units. A *federal constitution*, it has been said, *attempts to reconcile the apparently irreconcilable claims of national unity and power with the maintenance of state rights.*

In a federation two sets of governments exist side by side, both deriving power from the constitution. The spheres of activity of each are clearly defined in the constitution. The other characteristics of a federation are the distribution of powers between the Union and states, existence of an independent federal judiciary. Moreover, every citizen pays obedience to both the governments. Double citizenship is thus another feature of a federation. The constitution of a federation usually enumerates specifically the powers of the central government and the residual powers are delegated to the regional governments.

The word Federation has nowhere been mentioned in our constitution. India has been termed as a Union of states. And yet in this Union several federal traits are noticeable in India. The

Indian Federation comprises 22 States and 9 Union Territories.* Beside the Central Government, every state has its own separate government and these governments are free in their respective spheres. Secondly, there is a division of powers enumerated by the constitution between the central and state governments. There are three lists of power—the Union List, the State List and the Concurrent List. Subjects that are important for the whole country are in the Union List; those that are to be looked after by the state governments are in the State List. And subjects included in the Concurrent List are to be looked after by both the Union and the states. Of course, in case there is a conflict between the states and the Union regarding any subject included in the Concurrent List, the powers and decisions of the Union will be final. Thus the distribution of powers shows the preponderance and overwhelming supremacy of the Union¹

Thirdly, the constitution has been made rather rigid so that this relation between the Union and the States may not be upset.

Fourthly, there has been provision for a federal judiciary. The Supreme Court of India is the federal court. The federal judiciary sees to it that the states do not interfere with the powers of the Union.

Finally, there is supremacy of the Judiciary and the constitution. This is another federal feature of the constitution of India. For the proper solution of conflicts between the Centre and the states

Indian Federation*

Federated States		Union Territories
1) Andhra Pradesh,	2) Assam, 3) Bihar	1) Andaman and Nicobar Islands,
4) Maharashtra,	5) Gujarat,	2) Arunachal Pradesh,
6) Madhya Pradesh,	7) Hariyana,	3) Chandigarh,
8) Himachal Pradesh,	9) Jammu and Kashmir,	4) Dadra and Nagar Haveli,
10) Kerala	12) Meghalaya,	5) Delhi,
11) Manipur,	14) Nagaland,	6) Pondicherry,
13) Karnataka,	16) Punjab,	7) Goa-Daman and Diu,
15) Orissa,	18) Tamilnadu,	8) Lakkha, Minicoy and Amindivi,
17) Rajasthan,	20) Uttar Pradesh,	9) Mizoram,
19) Tripura,		
21) West Bengal,		

(Sikkim has become the 22nd state of India by the 37th Amendment Act.)

1. The Centre-State relationship in view of the distribution of powers will be discussed later.

regarding any constitutional point, a federal judiciary is not enough. For this there must be the supremacy of the Judiciary. Shri D. Basu, a prominent expert on India's constitution, however, says that the Indian constitution wonderfully adapts the via media between American system of judicial supremacy and the English principle of Parliamentary supremacy. Anyway, from the point of view of structure and nature, India can be called a Federation.

But despite these federal characteristics, there are a number of considerable differences between the Indian Federation and the other Federations of the world. In India the Union government is so overwhelmingly powerful in comparison with the states, that the latter appear to be ciphers. This leads some critics describe India as a quasi-federal state. The reasons for so thinking have been related below :

1. The federated states of India have not been given the independence and prestige usually due to federated states. In the American constitution there are certain formulations called 'state-rights'. Our constitution does not contain any such thing. The consent of the states was not sought before forming the federation. In the American constitution it is not clearly mentioned whether a state can break away from the federation or not. The Soviet constitution allows such right to the states. The states of India have been categorically debarred from it.

2. In the distribution of powers also the federal principles have not been followed in India. There are three lists to which we have already referred. In the Union List the Union has been given 97 important powers. There are 67 such powers in the State List. The Concurrent List contains matters which the Union and States jointly manage but in case of any conflict between them the opinion of the Union Government will prevail. Matters not mentioned in these three lists will be decided by the Union. Thus in the distribution of powers the supremacy of the Union has been established in India.

3. The constitution of America relates to the Federation only. The states have their separate constitutions. But in India there are no separate constitutions for the states.

4. In India there is no provision for dual citizenship. This also is considered to be a non-federal principle.

5. In India the name and number of states can be changed and

the change will have to be made by the union government. This is never possible in the United States of America. For, in America there is "an indestructible Union composed of indestructible States."

6. In India the governors of states are appointed by the President. The Governor can, if he likes, send any bill passed by the state assembly to the President for the latter's assent.

7. The judges of the state High Courts also are appointed by the President. This never happens in the U.S.A. and Switzerland.

8. In a federal system the federated states have equal representation in the Upper House of the Parliament. This is a very important federal principle. In the Senate of the U.S.A., all the states are equally represented. Rich and thickly populated New York and small Alaska have two representatives each. But in India the states do not have equal representation. Uttar Pradesh for example, has 34 members, while Assam has 7 only. There are, besides, 12 members who are nominated by the President in the Upper House.

9. If two or more states pass a bill to the effect that the Union Parliament should make laws on a particular matter of the State list, then the Union Parliament can under Article 252 do so. The Union can make laws in another sphere ordinarily with the state's jurisdiction. The Parliament will have authority to legislate with regard to any subject for the purpose of implementing treaties or international agreements.

10. Part of the authority the units exercise in normal times is taken away by the President in emergencies so that the states become all the more crippled. In such cases, our constitution becomes almost unitary in nature.

11. In financial matters the Indian federation has a tendency towards the unitary system. The economic planning makes the states highly dependent on the Union government. The State governments have to look eagerly for the money grants by the Centre. Planned economy thus is another factor in India that makes for a unitary tendency. Finally, the fact that the same party ruled for a long time in both the Centre and the states also made unitarism powerful.

These reasons have prompted Professor Jennings to describe India as a *federation with a strong centralizing tendency*. Professor

Wheare describes India as *a system of government which is quasi-federal...a unitary state with subsidiary federal features, rather than a federal state with subsidiary unitary features.*

India a quasi-federal state

Mr. Durga Das Basu, a noted commentator on the constitution of India, is of the same opinion. *The Constitution of India*, he says, *is neither purely federal nor purely unitary, but is a combination of both. It is a Union of a composite state of novel type. It enshrines the principle that in spirit of federation the national interest ought to be paramount.*

Whether a constitution is federal or not cannot always be ascertained from just the written formulations it contains. Its real nature is revealed through its application, through given effect to it. In India, the experience of the last 37 years show that the federal nature of the state is weakening gradually, while the tendency towards centralism is gaining strength. Mr. Durga Das Basu, therefore, says that the unitary bonds have in some respects been further tightened, the federal features have altogether withered away.

There may be three reasons for it: (1) The economic dependence of states on the Centre; (2) the absolute and wide powers of the central Planning Commission; (3) the rule for a long time of the same political party at the Centre and in the states. When after the fourth general election non-Congress governments were formed in some states, conflict arose between those states and the Centre as regards centre-state relationship. Now, the demand for more power for the states has been placed very strongly by different state-governments and particularly by the Left Front Government of West Bengal.

Thus the unitary tendency in India is quite strong and is getting stronger everyday.

2-9. System of Distribution of Powers in the Indian Federation

Dicey has very apt remarks—*The distribution of power is an essential feature of federation.* India is a federation and the division of powers between the Union and the states has been very clearly postulated by our constitution. The division of powers usually runs on two main lines: (a) the territory over which the Union and the states will have their jurisdiction; (b) the subject over which they will have their jurisdiction.

A. The Union Parliament can legislate for *the whole or any part of the territory of India*. For, the Indian Union is composed of the states and the territories and the jurisdiction of the Union Parliament extends over them all. The Parliament has the power of 'extra territorial legislation'. These legislations govern not only the Indians residing in India but also Indians residing elsewhere. No state legislatures possess such powers. Of course, there are certain limitations to the powers of the Parliament.

The state legislature legislates for its own territory and the laws made by the state legislature has reference to persons or objects within the territory of that state. A state legislature can make laws for the whole or any part of its own territory.

B. About the subjects over which the Union and the states have the authority, the constitution of India has enumerated three lists : (1) the Union list, (2) the State list and (3) the Concurrent list. This is a special feature of the Indian constitution, for, in most other federations, either there is only a Union list (as in the constitutions of the U. S. A. and Australia) or there are two lists namely, the Union list and the State list (as in the constitution of Canada). We have over and above these two lists, a Concurrent list.

(1) The Union list contains 97 subjects over which only the Union Parliament has the exclusive authority to legislate. These subjects are absolutely outside the jurisdiction of states. These subjects include Defence, Foreign affairs, Railways, Post and Telegraph, Banking, Currency and Coinage, Census, Union duties and taxes, etc.

(2) The State list has 65 subjects over which the state legislature has exclusive authority of legislation. In normal conditions, the Union has no right to make laws about any item included in this list. Maintenance of Law and Public order, Police, Public health and Sanitation, Local self-government, Agriculture, State taxes, Co-operative movement are among these subjects.

(3) The Concurrent lists contains 47 subjects over which the Union and the States have concurrent power of legislation. In case of conflict about jurisdiction between the Union and the states, the jurisdiction of the Union will prevail. Among the subjects in the Concurrent list are Criminal law and procedure, Electricity, Press, Labour welfare, Insurance, Factories, *Education* etc.

The subjects not mentioned in any of the three lists are known as Residuary subjects. Jurisdiction over them in correspondingly known as Residuary powers. In the constitution of India, like that

of Canada and unlike that of the U.S.A., the residuary powers have been vested in the Union. The Union Legislature has the authority of legislation in matters not mentioned in the three lists.

The constitution of the Indian Union follows a federal type, but there is a strong tendency towards the unitary system and most important powers are in the hands of the Centre or the Union government. The Union government can, under certain special circumstances, assume full powers in dealing with the items in the State list. It can do so if the President proclaims emergency; if two or more state legislatures request; if the President thinks that the government of a state cannot be carried out in accordance with the provisions of the constitution. Even in normal conditions, the Union government advises the state government on the exercise of power. Moreover, the vesting of the residual powers in the Union has left the Union government supreme. There is a belief that certain matters like agriculture, education and health are so important that they need a national policy. This also has enhanced the power of the Union.

2-10. Relations between the Union and the States in India

We have seen in the previous section that our constitution has provided a statutory distribution of powers between the Union and the state governments. Let us now examine the provisions of the constitution in regard to the relations between the Union and states in different spheres, i.e., Administrative, Legislative and Financial.

A. Administrative Relation

The constitution of India provides that the executive authority of every state shall be exercised as to ensure compliance with the laws passed by the Parliament (Art. 256). Every state government is required to exercise its administrative authority as not to impede or prejudice the exercise of the administrative power of the Union. The Union government may give instructions to states regarding maintenance of communication and protection of railways. The Union government is entitled to deal with the waters of inter-state rivers and river valleys.

If the President is satisfied that a state government cannot be carried on in accordance with the provisions of the constitution he can assume to himself all the functions of the government of that state and declare that the powers of the state legislature shall be exercised by or under the authority of Parliament.

B. Legislative Relation

We have seen that our constitution has three-fold distribution of powers. The Union Parliament has the exclusive power to legislate on subjects included in the *Union list*. Moreover, the Parliament can legislate on subjects enumerated in the *Concurrent list* and in case there is a conflict between Union and State law, the Union law will prevail.

The Parliament can also legislate on a subject included in the *State list* under certain circumstances If : 1. the Rajya Sabha (Council of States) passes a resolution by two-third majority to that effect ; 2. two or more states desire so ; 3. such legislation is deemed necessary for implementation of treaties and agreements ; 4. the President declares under article 356 the failure of the constitutional machinery of a state ; 5. President proclaims National Emergency under article 352.

Financial Relation

The constitution of India does not deal with the assignment of heads of revenue to the Union and States as a distinct and specific item ; the heads of revenue are treated as incidental to the legislative powers. All the revenues derived from the heads included in the *Union list* are to be credited to the Consolidated Fund of India. The states find the resources of their revenues in the subjects enumerated in the *State list*.

Under the above scheme the Union government is authorized to levy taxes on income, custom duties, excise duties, taxes on railway fares and freight, taxes on capital value of assets, taxes on capitals and companies, terminal taxes, etc. The state government is authorized to levy land revenue, taxes in agricultural income, sales tax, taxes in electricity, taxes in amusements, etc..

The method of collection and actual allocation may take the following forms : (1) taxes levied by the Union but collected and appropriated by the States ; (2) taxes levied and collected by the Union but assigned to the states ; (3) taxes levied and collected by the Union but distributed between the Union and the states ; (4) taxes levied, collected and appropriated by the Union ; (5) taxes levied, collected and appropriated by the states.

There is a Finance Commission to review from time to time the financial relation between the Union and States and to make recommendations regarding (a) the distribution of the proceeds of

those taxes which have to be divided between Union and States ; (b) the principle which should govern the grants-in-aids of the revenues of the states ; (c) the continuation or modification of the terms of any financial agreement entered into between the Union and the states ; (d) any other matter which may be referred to it by the President.

It is needless to add that the whole scheme of relationship that exists in India has been devised with a view to making the Union or Central government strong.

2-11. Parliamentary or Cabinet System and Presidential System

In a Parliamentary or Cabinet system all executive power and authority is exercised by a cabinet. A king or a President usually remains at the head of this system of government. He, however, is just a titular head and not the real ruler. He is the symbol of nation, but does not rule the nation. He is the head of the state, but not the head of the government. His post has honour and dignity but not authority and hence has no responsibility either. The cabinet governs in his name. The cabinet remains responsible for their acts to the Parliament. The cabinet rules according to the laws that Parliament makes. This is the reason for the cabinet's responsibility to the Parliament. The system is, therefore, called Parliamentary or Cabinet system of government. Under this system the cabinet will have to resign if its acts are not consented to by the Parliament. This form of government obtains in India and the U.K. This system is alternatively called Responsible Government.

On the other hand, the real governmental power in a Presidential form of government remains for a term in the hands of a President.

He is the head of the State and the head of the government at the same time. He is the head of the State in name as well as in fact.

There is usually in such a system a certain division of powers in the country. The legislature makes law and the President governs. He is not responsible to the legislature ; he rather is responsible to the people.

But the fact of there being a President in a country does not necessarily indicate that it has a Presidential form of Government. The important point is whether the President wields real power.

India, for example, has a President and yet the system here is a Cabinet form of government, for the real and effective power of the

The cases of India and the U. S. A. President is but little. He cannot act without the Cabinet's advice. The Cabinet in its turn is responsible to the Parliament. The power of the President of India is formal, that of the Cabinet real. The President is the constitutional or titular head of the Indian State. It is another matter in the U. S. A. The American government is a Presidential form of government. There the President is not responsible for his actions to the Legislature. He wields large-executive powers. He gets into office for a term of four years and it is difficult to remove him from office during this term. The ministers are officers subordinate to him and are responsible to him. It is, moreover, the President who appoints the ministers and who can, if need arises, dismiss them.

Merits of the Cabinet system

The Cabinet and Presidential forms have their respective merits and demerits. The defects of the one, obviously, are the merits of the other.

1. The first merit of the Cabinet form of government is that there is usually a close co-operation between the legislature and the executive. As Professor Laski says, "It secures an essential co-ordination between bodies whose creative interplay is the condition of effective government."

2. Secondly, the Cabinet system is better suited to cope with emergencies. In critical times a reshuffling of the cabinet may go a long way to meet the eventuality. Critics like Bagehot and Dicey say that flexibility and elasticity are important merits of the Cabinet form of government.

3. The members of the Parliament try to control the Cabinet according to the turns of the public opinion. This establishes some sort of a popular rule. And this makes the executive necessarily responsible. The executive is responsible directly to the Parliament and indirectly to the people at large. In Bryce's words, "Being in constant contact with members of the opposition party, as well as in still closer contact with those of their own, they have opportunities of feeling the pulse of the assembly and through it the pulse of public opinion."

4. The cabinet system increases the political consciousness of

the people, for under it, the part played by election and discussion is great.

5. Finally, such a system makes it possible to introduce democracy without abolishing the Crown. The example is Britain.

Defects of the Cabinet system

The Cabinet form of government is not free from defects.

1. Its first defect seems to be that it is a system without responsibilities. The Parliament and the cabinet sometimes vie with each other in devolving responsibilities.

2. The minister have to be present at the proceedings of the Parliament and this delay governmental activities.

3. A Cabinet government is easily removable and this makes it impossible to follow a policy for a long time.

4. In a Cabinet system, the ministers tend to talk more and work less and spend time and energy more in earning popularity and in showing off than in doing real work. The ministers often pay greater importance to the electors and thus become an inefficient lot.

5. Since a cabinet government is a government of many people, there is a considerable possibility of conflict of opinion among the members of the government themselves.

6. Finally, in essence the Cabinet form of government is a tyranny of the majority party. It often turns into a cabinet dictatorship.

Haveing thus dealt with the merits and demerits of the Cabinet system, we will now see what the merits and demerits of the Presidential form are.

Merits of the Presidential system

1. One merit of the Presidential form of government is its stability. The President is elected for a fixed tenure and generally he cannot be removed from his office during his tenure. Because of this stability it is possible to adopt long-term programmes and implement them.

2. Secondly, in such a system the men in the government give more importance to governmental work than to election campaigns.

3. It is highly effective in times of emergency. The President can exercise all executive powers since he has no colleague with equal powers. His ministers are mere paid officers. He is not

obliged to seek for anybody's advice. This enables him to take quick decisions and give effect to them.

4. The Presidential form of government is very suitable in a country where there are too many political parties and where the ministries change too frequently. As Bryce says, "Legislature are less dominated by party spirit under the Presidential system than under the Cabinet system."

Demerits of the Presidential system

The demerits of the Presidential system are not insignificant.

1. The President is not responsible to the Legislature. This tends to make the President dictatorial.

2. The responsibility of making law is not easy to locate in this form of government.

3. The role and influence of public opinion are not greatly felt in a Presidential form of government. Democracy, as a result, suffers.

4. The judiciary often mediates in conflicts between the executive and legislature and in the process gains preponderance.

5. This form of government is neither flexible nor elastic. Efficient people cannot be brought into the government in hours of need. Bagehot says, *there is no elastic element, everything is rigid, specified, stated.*

It seems, however, that in the present world of Welfare States the people everywhere are developing a liking for the Cabinet form of government. The reasons for the popularity of the Cabinet or Parliamentary form of

Prevalence of Cabinet form

government are the development of the party system, influence of the public opinion, aversion to autocracy, and eagerness to run government through co-operation. In some socialist countries even the Legislature is gaining importance gradually.

2-12. Basic Principles of the Cabinet System

There are certain basic principles of the Cabinet system. In the first place, every member of the Cabinet must be a member of the

Legislature. According to the constitution if Minister must be a member of Parliament

a minister has not membership of the Parliament for six months without break, his membership of the Cabinet will be cancelled. In general, of course, ministers are chosen from members of the Parliament. The principle underlying this rule is that the ministers must represent the people.

Secondly, the Cabinet has certain responsibilities. The ministers are responsible to the President, the Prime Minister, their own Minister's responsibility parliamentary party and above all, to the people. The President may, if he considers a minister's action unlawful, bring it to the Prime Minister's knowledge and may request the Cabinet to reconsider it. If a minister's removal appears justified and necessary, the Prime Minister can, first by exhortation, and then by asking the President to issue orders, remove him (the minister concerned).

Thirdly, the Cabinet is collectively responsible to the Parliament. This is intended to ensure that the ministers will always act unanimously and as a unified body. Article 75(3) of our constitution states: *The Council of Ministers shall be collectively responsible to the House of the People.* A minister can have his individual Collective responsibility opinion but whenever the Cabinet as a whole takes any decision every individual minister must stand by it, otherwise he must resign his post. If an individual minister loses the confidence of the Parliament, or, if an important Cabinet proposal is outvoted in the Parliament, the whole Cabinet is obliged to resign.

Some critics think that in modern times the Parliament is gradually losing ground and the Cabinet gaining it. In India also this phenomenon can be noticed. All the important bills concerning money are introduced and initiated by the Cabinet dictatorship Cabinet and bills proposed by the ordinary members do not get adequate importance. And almost all the bills brought by the Cabinet are passed smoothly, owing to the fact that the Cabinet has the backing of the majority party in the Parliament. The Parliament has become a mere formal passing agency. Laws are so complex and the budget is so hair-splittingly detailed that it is often extremely difficult for the ordinary members of the Parliament to participate effectively in the deliberations on them. For these reasons the Parliament nowadays is controlled by the Cabinet and not the other way round. This is gradually, according to many critics, giving rise to decline of Parliament and some sort of a Cabinet dictatorship.

The Cabinet alone has the leadership, initiative and deliberative capacity that are needed to make Parliamentary democracy a success. As every group needs a leader, so the Cabinet also needs one. The Prime Minister is the leader of the Cabinet. The Prime Minister

assists the President in appointing the other ministers. All the members of the Cabinet have equal status but still, as a leader and as an adviser to the President, the Prime Minister occupies a special position in the Cabinet. The Prime Minister is a bridge between the President and the Cabinet.

2-13. India : Presidential or Parliamentary ?

One of the chief characteristics of the constitution of India is the Parliamentary or Cabinet form of government. The Parliamentary form of government in its true form can be found in Britain. In fact, Britain is the birthplace of the Parliamentary form of government. The constitution of India has followed the British example. India has accepted and has been followed the Parliamentary form with a good measure of success. Thus the fact that in developing this system India is in deep debt to Britain cannot be gainsaid.

We have seen that at the head of the Parliamentary form of government there is usually a person whose power is titular but not real, whose authority is formal but not effective. We have a president at the head of our State who is just a President a titular head constitutional figurehead and wields no real or effective power. He, however, does not reign hereditarily as the Queen of Britain does ; he is elected indirectly by the people. In practice he acts on the advice of the Cabinet just as the British Queen does. It may be pointed out by the way that the constitutional experts of India threw up a turgid controversy some time ago about whether the President of India is just a figure-head or has been given real powers by the constitution. But the established conventions during these thirtyseven years or so prove amply and unequivocally that the President of India, like the King or Queen of Britain, is just a constitutional figure-head and acts on the advice of the Cabinet. The 44th Amendment Act which has been enforced recently, provides in unequivocal terms that the president is to act in accordance with the advice of his ministers.

In accordance with the British practice, there is a Cabinet in India led by the Prime Minister. The President is helped and advised by the Cabinet which in fact rules the country. In a Presidential form of Government —as in the U. S. A.—the members of the Cabinet are not members of the Legislature and are not, therefore,

Cabinet responsible
to Parliament

responsible to it. But the members of the Union Cabinet of India must be members of either House of the Parliament. Ministers are responsible individually and collectively to the Parliament for their acts and must bow out of power if a motion of no confidence is passed in the Parliament against them. The Indian system is thus a *Responsible form of government*.

The personal opinion of the American President in the matter of appointing ministers is very important. But the British Queen and the Indian President have no choice of their own. They are bound to appoint the leader of the majority party as the Prime Minister and to appoint other members of the Cabinet on the advice of the Prime Minister. The constitutional figurehead cannot ordinarily remove the Cabinet from office so long as it enjoys the confidence of the Parliament.

In the Parliamentary form of government there is usually a close co-operation and co-ordination between the legislature and the executive, for, the party that secures majority in the legislature forms the Cabinet and every Cabinet member is a member of the Parliament also. The laws which the Parliament makes or proposals

Close cooperation
between executive
and legislature

which are placed for discussion in the Parliament are determined and decided on by the Cabinet beforehand. There is in this system no clearly defined sphere of action between the legislature and the executive. Nowadays the Cabinet or the executive controls and prevails on Parliamentary activities since the party system is becoming highly mature and integrated. But in America where the form of government is Presidential the executive does not and cannot control the Legislature. There is, therefore, some separation of powers in America.

Another feature of the British Parliamentary system is that the Parliament is sovereign by all intents and purposes. No British Court can annul a law passed by the Parliament or declare it unconstitutional. But the constitution of India has not given such

Indian Parliament not
sovereign like the
British Parliament

power to the Parliament. Rather in pursuance of the American practice, the Supreme Court of India has been empowered to determine the constitutionality of the laws passed by the Parliament. In India the supremacy of the Judiciary has been recognized. Of late, however, the question of amending the constitution in order to make Parliament sovereign has been raised.

There has been in the air an opinion that the Supreme Court should be stripped of the power to decide the constitutionality of the laws made by the Parliament and that, like Britain, the Indian Parliament also should be sovereign because it is the highest representative body in the country.

The constitution of India thus follows on the whole the British Parliamentary system and as such the principal characteristics of a Parliamentary form of government are present here, though not in every possible detail.

2-14. Monarchy

In some countries the highest power or sovereignty is exercised by one person. He is the King and the system is Monarchy. In Monarchy one usually gets power hereditarily. Definition and classification In some regions of ancient India and in the ancient Rome there was the system of a king's being elected by the subjects. Monarchy can be of two types : (1) Absolute Monarchy and (2) Constitutional Monarchy.

Very few modern countries have absolute monarchy. The Bourbons of France, the Romanoffs of Russia, the Habsburgs of Austria, and the Hohenzollern of Germany are now things of the past. Louis XIV of France once declared boastfully—*I am the State*. That France is a Republic now.

That absolute monarchy has certain merits—so far as governmental efficiency is concerned—cannot possibly be doubted. Its chief merits are stability, agility, enterprise, secrecy, organizational simplicity and quick decision. It is possible for a noble king to perform acts that bring welfare and happiness to his subjects. In the ancient and mediaeval periods there were noble kings and emperors like Ashok, Charlemagne and Akbar. The ideal of a Ramarajya—a period of peace and prosperity imagined to have been brought by king Rama's rule has not altogether been given up. But when a despotic ruler rules in his own interest, the chances of peace and happiness are but remote.

In modern times Monarchy is not a popular form of government. For,

a. the idea of equality is firmly established today ;

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b. the common people lose initiative and enterprise under a monarchy ; and

c. the individual can hardly acquire under a monarchy such rights as are necessary for the fullest development of his self.

When the king does not himself govern the country and just remains at the head of the constitution i.e., when he reigns but does not govern—the system is then called a Constitutional monarchy. Constitutional Monarchy. Here the king merely performs what the subjects wish to do. In such a system, the scope for an efficient king to perform welfare work is as little as the scope for an inefficient king to do the country any harm. Constitutional monarchy results from the people's revolts or from the voluntary royal abdication or from other movements. The King or Queen of England is a Constitutional Monarchy who reigns but does not rule.

Constitutional monarchy has certain merits. If the head of the state is elected by the common people's vote, there will then be a tremendous excitement, conflict and brawl at the time of the election. But there will be a peaceful and almost smooth change of power if a king gets his Crown hereditarily. Merits and demerits of constitutional monarchy Constitutional monarchy is not free from defects. There is no guarantee that a king who gets on to the throne hereditarily will be an efficient king. A constitutional monarch has no real power but such a system involves a huge expenditure that seems unnecessary and extravagant. The people of most modern states are against any kind of monarchy whatsoever.

2-15. What is a Republic ?

The term *Republic* has been widely used in the context of the constitutions of modern states. Leacock thinks that the term Republic is used in order to denote a form of government opposite to monarchy. Etymological meaning Jellinek too thinks that the Republic is a form of government by many instead of by one. Rousseau, on the other hand, likes to characterize any government based on social contract as Republican whether it is a monarchy or an oligarchy in form. Madison, one of the framers of the American constitution, tells us that when power is derived from the people directly or indirectly and when the rulers

govern so long as they satisfy the people by honest endeavour, that government is a Republic.

The word 'Republic' is derived from Latin word *res-publica* which means public affairs. In ancient Greece, city-states were called Republics. We find the word *Republic* frequently in the writings of Plato and Aristotle. The period of Roman history prior to the establishment of the Augustan empire has been described by historians as a Republic. In ancient periods any state was called a Republic when the ruler did not get power hereditarily and where some amount of popular consent or influence worked as a basis for government.

The Cromwellian government in England after the execution of King Charles I was called Republican. In general a government was in those days described as Republican if it was marked by the absence of the Crown and by a certain amount of popular participation in the government. The anti-monarchical feelings were very powerful in the American War of Independence and the French Revolution. This explains the establishment of a Republic permanently in America and temporarily in France.

Nowadays, however, the term *Republic* has not been used so widely as in ancient times. In order to be regarded as a Republic; a government should have the following characteristics :

(1) A king or an emperor should not be the ruler of the country ;

(2) The person at the head of the state should not get power hereditarily and should not consider power to be his personal right ;

(3) He is elected by the people by direct or indirect vote for a definite term and after expiry of that term either is re-elected or makes over power to his successor ;

(4) Government power is in fact wielded according to the people's will.

In very recent times especially, after the Second World War, the term *Republic* has been used widely and in various senses. Franco's dictatorship in Spain, the Soviet system of government in Russia and the government of India are all called Republics. In the past, a popular government established after the people's struggle for independence was called a

Republic ; but today the struggle for independence and the establishment of the people's sovereign government are no longer considered to be indispensable conditions for a government being called a Republic.

2-16. India as a Republic

The Preamble to the constitution of India describes India as a *Sovereign Socialist Secular Democratic Republic*. Our constitution Preamble declares was put into effect from January 26, 1950 and India a Republic according to the Preamble India became a Republic on and from that day. That is why January 26 of every year has since then been observed in India as the Republic Day. Let us now discern the characteristics of a Republic in our constitution.

There is no king or emperor at the head of the State of India and no person who gets power hereditarily. There is a President at the head of the government who is elected by indirect vote for a term of five years. If he gets himself re-elected after a term of five years, he continues for another term. But if he fails to be re-elected he makes power over to the person who becomes the new President.

In countries where kings or emperors rule, the principle of hereditary succession is taken for granted or usually recognized. But in Republics this principle is not recognised and naturally there is no such thing in India too. The first President of the Indian Republic was Dr. Rajendra Prasad who remained at the government for two consecutive terms, i.e., for ten years. Dr. S. Radhakrishnan became the next President who also, was President for ten years. After him Dr. Zakir Hussain was the President of India. He died while still a President and Shri V. V. Giri became the President next. After Shri V. V. Giri the highest office in the land was held by Shri F. A. Ahmed and then by Mr. Neelam Sanjiva Reddy. Recently Mr. Zail Singh replaces Mr. Reddy who retires at the end of his term. Thus the post of the President of India is not hereditary. Any suitable and eligible Indian citizen can get himself elected in the office of the President for a term of five years.

Madison says that directly or indirectly the people are the source of all power in a Republic. The Preamble to the constitution of India gives the people great importance. The words *We, the people of India* are very important. The people have framed the constitution and have taken the vow of making India a sovereign Socialist Secular Democratic Republic. Moreover, the ideals and aspirations that are reflected in the Directive principles of State policy have broadened and strengthened the basis of the Republic.

These characteristics earn for India the name *Republic*. Yet the fact that only once in Preamble has the term *Republic* been used and that it occurs nowhere else has been surprising. As Dr. D. N. Sen says, *Nowhere in the text of the longest constitutional document in history is the expression 'Republic' used.... This is significant from political, constitutional and legal points of view.*¹ Critics seriously feel that there should have been in the body of the constitution some explanations of the political, constitutional and legal implications of the expression *Republic*.

Though the term *Republic* has certain special and peculiar characteristics and meanings, it has been indiscriminately used in recent times. For example, even the government of General Franco, one of the most hated dictators known to history has been dubbed a Republic, though there was hardly any republican element in it.

Exercise

1. What is Federal Government ? How is it distinguished from Unitary Government ? (2.5 and 2.3)
2. Discuss the merits and demerits of Unitary and Federal system of Governments. (2.4 and 2.5) [H. S. C. '78]
3. What are the characteristics of a Federal Constitution ? (2.5) [H. S. C. '78]
4. Discuss the conditions that favour the formation of a Federal Union What are the conditions of success of such a system ? (2.5)
5. Explain the chief features of a Federation and discuss its merits and demerits. (2.5 and 2.7) [H. S. C. '80, '83]
6. Discuss the nature of the Indian Federation. (2.8) [H. S. C. '82]

7. Do you think that the Indian constitution is federal in form only but unitary in practice? Give reasons for your answer. (2.8)
[H. S. C. '79]
8. Is India a Federation? (2.8)
9. Distinguish between Cabinet form of Government and Presidential form of Government. Discuss their respective merits and demerits. (2.11)
[H. S. C. '79, 83, 85]
10. Discuss the basic principles of the cabinet system. (2.12) [T.S.B. '79]
11. Distinguish between Parliamentary and Presidential forms of government. What are the advantages and disadvantages of the Parliamentary form of government? (2.11) [H. S. C. '81]
12. Is the Indian system of government Presidential or Parliamentary? (2.13)
13. What is Monarchy? Distinguish between Absolute Monarchy and Constitutional Monarchy. (2.14) [H. S. C. '79]
14. What is a Republic? (2.15)
15. Can India be called a Republic? Give reasons for your answer. (2.16) [H. S. C. '81, 85]
16. Examine the view that Indian constitution is partly unitary and partly federal (2.8) [H. S. C. '84]

Objective-type Questions

1. Fill in the gaps :
 - (a) The natural form of the Government of many is called _____.
 - (b) The prevented form of such Government is called _____.
 - (c) The natural form of the Government of a few is _____.
 - (d) The preverted form of such a Government is _____.
 - (e) The preverted form of Government of many is called _____.
 - (f) The form of Government opposite to a Federation is called a _____ form.
 - (g) There are in India _____ Lists regarding distribution of powers between the Centre and the States.
2. Choose and tick the correct answers :
 - (a) The third list of distribution of powers between the Centre and the States is the (State list, *Concurrent List*, Union List.)
 - (b) The head of a Parliamentary or Cabinet form of government is a (*Constitutional*, Real) head.
 - (c) The Cabinet in a parliamentary democracy is responsible to the (*Parliament*, Head of the state, Judiciary).
 - (d) The Head of the Presidential form of government is responsible to the (Parliament, Cabinet, *People*).

- (e) In a Republic the chief executive comes to power (*by election, hereditarily*).
- (f) (*India, Great Britain*) is a Republic. [H. S. C. '82]
- (g) Parliamentary Democracy means a government—(with a Parliament, *with a cabinet responsible to an elected legislature*, with a hereditary king and an elected Parliament, with a President aided and advised by a cabinet) [H. S. C. '78]
- (h) In a Parliamentary Democracy the cabinet is responsible to the (Upper House, *Lower House*) of the Parliament.
- (i) India is (*federal, unitary, quasi-federal*). [H. S. C. '80]
- (j) Under the present Indian constitution 'Education' is included in the (Union List, *the Concurrent List*, the State List) [H. S. C. '81, 85]
- (k) The number of the constituted states of the Indian Union is (21, 22, 23) [H. S. C. '81, 85, 85]
- (l) A federation (*is, is not*) marked by the supremacy of the constitution. [H. S. C. '84]
- (m) U. S. A. has a (Parliamentary, *Presidential*) Government. [H. S. C. '84]

"A Society in which reason governs the contact of men and one in which each man feels responsibility for his action is also a society in which every man contributes some thought and feeling to the common life Democracy as an ideal is, therefore, a society not of similar persons but of equals in the sense that each is an integral and irreplaceable part of the whole."

—C. D. Burns

CHAPTER THREE

Democracy and Dictatorship

3-1. Democracy

The word *Democracy* is quite a familiar one in our age. Bryce says that even a hundred years ago the word used to evoke disgust and fear. But now the people have developed a liking for it. Popular feeling about democracy nowadays can be described as one of respectful fondness. But what really do we mean by democracy? Plato and Aristotle called any government a democracy if in it power was exercised on the whole by the people and if they exercised that power in the interest of the people. They considered democracy to be a perverted form of government and not a natural one.

But this meaning of the democracy is not accepted in modern times. It is thought, on the other hand, that, roughly speaking government in which the people are in possession of real and effective authority is a democracy. In fact, this is also the etymological meaning of democracy. It is derived from the two Greek words *demos* and *kratia* which together mean authority of the people.

Abraham Lincoln, an American President of the nineteenth century, gave his own definition of democracy which has become very widely known. In his view democracy is a Lincoln's definition *Government of the people, by the people and for the people.* We will now analyse this definition.

In the first place, a government of the people means that the principles and activities of the government of a country are in line with the customs, conventions, usages, thoughts and culture of the people of that country. Government of the people The government must not be alienated or dissociated from the currents of public life and the people on their part must feel that the government is theirs.

Secondly, a democratic government must be run by the people. This means that those who will rule must be elected by the people and will continue in office so long as the people will want them to be in power. The people can, if they so wish, change a set of rulers and replace them by a new set. The representatives of the people will form the Parliament and that Parliament will exercise authority on the people's behalf. The government will take the help and co-operation of all the sections of people of the society and will associate itself with the feelings, ideas and ideals of the people at large. Government by the people

Thirdly, government for the people signifies that it serves the interest of the people. The prosperity, security and happiness of the individuals and the society must be the purpose of the government. The government tries not for the well being of any one class, any one section or any one party but for the development of all sections of the people. A democratic government seeks to bring about the greatest good of the greatest number of the people. Government for the people

There is, however, a controversy regarding this definition of democracy. In the first place, the phrase *government of the people* makes the people the source of governmental power. Secondly, *government by the people* should mean a government in which all the people participate by and large. Seeley defines democracy as a *Government in which everyone has a share.* But in fact, *everyone* cannot have a share in the government. Dicey's interpretation is that a government may be said to be run *by the people* where a considerable part of the people participate in the government. Lord Bryce

also speaks of the participation of qualified citizens. Thirdly, *government of the people* signifies welfare of the community.

According to MacIver, democracy is not a way of governing, whether by majority or otherwise, but is primarily a way of determining who shall govern, and broadly, to what ends. So, from this point of view, freedom of choice is the principal basis of democracy.

MacIver

In John Stuart Mill's view, democracy means the people's participation in and access to the sovereign power of the state. If this is really attained the good old gulf between the government and the governed will then be narrowed down and the rule of popular rights will be established. In a democratic form of government, power by and large is in the hands of the people. The two bases of democracy are popular sovereignty and welfare of the people. But the two conditions for its success are individual rights and equality.

J. S. Mill

Characteristics of Democracy

The above discussion will bring out some characteristics of democracy. In the first place, the democratic rule rests on public opinion. Public opinion is the essence of democracy. Secondly, a sizable part of capable citizens will have to take active part in the government of a democracy. All citizens are not capable of participating in the government. Democracy is the government of the majority of qualified citizens. Thirdly, theoretically, the sovereign power in a democracy is in the hands of the people. Fourthly, welfare of the people is the aim and objective of democracy, and the principle of equality is its chief principle. In other words, democracy establishes a society in which there is social, economic and political equality.

The chief point of the democratic government is the individual's liberty of choosing or voting the representatives from among men of different and even opposing views. The individuals should be free to decide which should be the principle of the government and who should rule. Men have different shades of opinions. Peaceful co-existence of the different ideas and ideals only consolidate the democratic structure. Difference of opinion and rights to hold different opinions are taken for granted in a democracy and must not be suppressed. *Ballot and not bullet* is the motto in democracy. Usually in a democracy there are more parties than one and each

party stands for an ideal. In a democracy, therefore, the cooperation and healthy competition among the parties are absolutely necessary. Different ideas and ideals which are allowed to play freely in a democratic set up, are analysed and examined critically. These are distilled, so to say, into the governmental policy and principles. The laws are framed according to those principles. Through the political parties different ideas and ideals *flow from social reservoir into the system of the democratic state and turn the wheels of the political machinery in that system.* The democratic structure of government thus creates a peaceful atmosphere of competition, discussion and compromise.

3.2. The Democratic Ideal

Democracy does not signify just a framework of government. It has a deeper and wider significance; it has a greater implication.

Democracy not merely a form of government, it is also an ideal

In a broad sense, democracy is an ideal of social organization. It is an ideal social system founded on discipline and individual liberty.

The basis of this ideal is the sense of human welfare and the inner qualities of men. It urges the government to serve the human communities, not to gulp it. Democracy aims at the full development of the individual talents and qualities by safeguarding individual liberties and rights. The individuals will decide which way they will go. Fear, cowardice, hero-worship and selfishness will be forsaken and equity and justice will reign supreme in the life of a democratic state. With these ideals before them the citizens will themselves rule and will rule themselves.

Pericles, the great Athenian of the fifth century B.C., raised the banner of democracy to a great height. We may recall what he said many hundred years ago—*The possession of the franchise by a majority instead of a minority has earned for it the title of Democracy.* "Before the law, equality is assured to every citizen in his dealings with his neighbour; the recognition of personal distinction in any field and the political advancement which is its rewards are determined by merit and not by social standing; and no stigma attaches to poverty which can bar the career of any man capable of serving the state. We lead a life of freedom not only in our politics but in our mutual tolerance of private conduct.....and while our private intercourse is thus free

from constraint this does not react to the detriment of law and order, which are preserved by a wholesome respect for the constituted authorities and for the laws of the land.....Besides all this we cultivate the arts without extravagance and the intellect without effeminacy. We care more for the uses of wealth than for its show, and we see the real disgrace of poverty not in admission of the fact but in neglect to seek a remedy. Our politicians do not neglect their private affairs, and the rest of us devote ourselves to business without losing touch with politics. We are unique in regarding men who take no part in politics as not merely unambitious but unprofitable, and we are all sound judges, if not creative statesman, in public affairs. In our belief, action suffers not from discussion but from lack of discussion to enlighten it before it is taken."

The most important fact about democracy is the liberty of the individual. Individual liberty has two conditions. In the first place, an individual is a grown up person and has his personal own ideas about life. In Kant's words, *an individual is never an instrument for the achievement of other people's private ends*. Every individual is complete in himself and his ideals and aims are entirely his own. Secondly, the complete development of the personality of this self-contained individual depends upon freedom of action and freedom from unnecessary constraints. The democratic form of governments creates this free atmosphere. Mere extension of franchise and equality before law will not make for democracy in a society in which pedigree and property are too deeply-rooted prestige-factors. C. D. Burns observes, *Democracy as an ideal is, therefore, society not of similar persons but of equals, in the sense that each is an integral and irreplaceable part of the whole*.

3-3. Classification of Democracy

Democracy is of two kinds—direct and indirect democracy. In ancient Greece and Rome the people directly participated in the government. In those days even small cities with small population could be States. Of the people those who were free citizens met in open assemblies and made laws by votes. This is known as *direct democracy*. In direct democracy every citizen had his direct share in the running of the government.

But such days are past. Modern states are many times bigger

than ancient city-states. They have huge populations. The problems with which the modern states are saddled are various and difficult. Millions of men meeting and voting in open conferences is an absurdity now. That is why direct democracy is no longer in vogue nowadays. In its place has evolved what is known as indirect democracy. However, direct democracy is still found in some Swiss cantons.

Direct democracy is often meaningful because people in this system directly take part in administration. The people assemble in a place, frame laws and execute them. As a result their participation is direct. In direct democracy it is not possible for the representatives or the parties to take advantage of the system in the name of the people.

Merits and demerits In fact, government of the people, for the people and by the people is only possible in direct democracy. It must be remembered at the same time that direct democracy is not possible in big and populous states as most modern states are. It is impossible in a big modern state for the huge number of the people to practice the direct democratic process. Direct democracy could work in the ancient city-states. The modern states are bridle with enormous problems and it is not possible for all the people of a modern state to have a direct hand in their solution. That is why direct democracy is unworkable in a modern state.

Indirect democracy is also known as Representative Government. In such a government the people do not themselves rule. They rather elect their representatives for a particular term. These representatives meet in the Parliament to make laws and control activities of the executive. Indirect democracy The people thus rule the country indirectly through their representatives.

The chief merit of this system is that it precludes the participation or interference of the uneducated and insensitive mob in the executive and legislative work of the government. The ordinary people, inexperienced in the work of government as they are, usually show little interest in the details of administration. Their capabilities are not of a good order. It is, therefore, better to run government through a small number of people's representatives than making over legislation and its execution to an uncontrolled, unwieldy rabble.

Direct democratic method

Nowadays, efforts are made to effect a compromise between direct democracy and indirect democracy. Even in modern indirect democracies certain measure can be taken to enable the citizens to have a taste of direct democracy.

The first such method is the Referendum. Sometimes, instead of taking the opinion of the elected representatives on a particular issue, some sort of a plebiscite is taken in which large bulk of the people may directly communicate their opinion. If a majority votes in favour of the bill it becomes a law. This is known as Referendum.

The second method is the Initiative. If the electors think it necessary and proper that a certain law should be introduced, they can prepare a bill and present it to the legislature for its approval. This is known as Initiative.

A third method is the Recall. If a representative goes on voting or expressing his opinion against his electors' views and interests, a section of the voters can demand his Recall. Two or three countries have introduced all or some of these direct methods. Switzerland has introduced the first two. Recall has been introduced in the U.S.S.R., but its use has been infrequent.

Dr. Finer has severely criticised these direct democratic methods. In his view, referendum will not have the desired effect in the present world since it is dominated by political parties. Referendum will be controlled and exercised chiefly by the influential parties. In the circumstances, it will be very difficult to take a referendum against a representative who belongs to the majority party. It is equally difficult to recall him. Besides, the Recall may become an instrument of expressing the people's frenzy and discontent. A certain efficiency, education and political sense are required in order to use *referendum*, *recall* and *initiative* properly. But the common mob lack these qualities and thus it is very difficult to use the three methods successfully. Dr. Finer says that these methods may be introduced theoretically to ensure popular sovereignty, but they play no effective role in removing the defects of the representative or indirect democracy.

3-4. Merits and Demerits of Democracy

The merits and demerits of Democracy are discussed below :

A. *Demerits of democracy*

Even if we admit that democracy is the best form of government, we should not lose sight of some of its defects. Democracy has been subjected to severe criticism ever since the days of Plato and Aristotle. In the first place, it is said that democracy by treating all people equally fails to pay due respect to talents; that it gives greater emphasis on number and quantity than on quality. And it becomes, in effect, not the rule of the best, but the rule of the average. The average citizens are generally prone to accept anything old and traditional, and are unable to appreciate novelties. The basis of democracy is the conservative, and anti-progressive outlook of the average people who are but slaves to practice and tradition. That is why mobocracy, according to Aristotle, is a very inferior form of government.

Secondly, in some countries great majority of the people have no or scant education. In the democratic form of government, this uneducated will rule. As a result, government becomes inefficient and ineffective. Carlyle has described democracy as a *rule of fools*.

Thirdly, though democracy is theoretically a rule of the people, in actual fact, power is exercised by a handful of clever and power-loving people. These people lead the political parties and seize governmental power and run the government in their own interest or in that of their party. The political parties are formed according to the *iron law of oligarchy*. The ordinary members have no power or right to take decisions. The only thing that the common people do throughout their lives is following one leader or another blindly and insensibly. They have all praise for the leader, they habitually and complacently swallow the decisions of their leaders. This becomes a travesty of democracy.

The Marxist criticism of democracy is also very important. The Marxists think that democracy cannot succeed because of the existence of classes on economic basis. The class which is eager to preserve private property, capture the state power and through the media of the radio, the press, the cinema hoodwink the people by misinforming them.

Fifthly, since power is not centralized in the hands of a few

efficient people, it becomes difficult to take quick decisions in times of national emergencies. Discussions and observance of formalities often delay taking of measures. Moreover, in the matter of quickly introducing measures for economic development, the democratic form of government is not well suited. There are many pressure-groups which make it difficult to take the right measure at the right time. As Prime Minister Baldwin has said, *Democracy is always two years behind dictatorship.*

Sixthly, according to Bryce, modern democracy is of a distorted nature. The voters, the members of Parliament and the government officials become easy prey to the wealthy sections who win them over by the bait of money. As a result, the government as a machinery of the state hardly remains non-partisan. The democratic form of government, by allowing undue advantages to some people, becomes a perverted form.

Seventhly, some critics allege that democracy is unscientific and based on orthodoxy. Psychologically and biologically democracy is a faulty system. Mass psychology is a very elusive thing for democracy, for, it is not founded on logic and reason. As Graham Wallas says, *Politics is only in a slight degree the product of conscious reason. It is largely a matter of subconscious processes of habit and instinct, suggestion and imitation.* The masses hardly care for reason, they rather react favourably to slogans and clever artifices.

Biologically speaking, there must be differences in the thinking abilities of men. These differences are genetical and hereditary. McDougall says that capacity for intellectual growth is inborn, that is hereditary, and also that is correlated with social status.

Finally, it is thoroughly unscientific and unreasonable to choose representatives through regional elections. For, these representatives cannot possibly represent and safeguard the multifarious tendencies and emotions of the innumerable voters of the country. Professor G. D. H. Cole has, therefore, spoken of Functional Representation which can be ensured through occupation-based elections.

Of all the attacks on democracy, that of the psychological school has been the severest. But the impact of the mass psychology on the citizens will wane by degrees with the extension of education and the increase of political consciousness. The biological argument

also has its weakness. The qualities which men inherit and the influences of environment are so closely mixed that it is difficult to separate them. The Marxian criticism, too, has become somewhat weak nowadays. The influence of a particular class on a party or on the government is no longer absolute and supreme. In the matter of legislation or in policy matters, the government usually feels the pressure of the wealthier classes the wage-earners and the bureaucracy. The politics which the government takes and the laws which it makes are but a *parallelogram of forces*. So when different forces are at work, it is incorrect to dub democracy as the dictatorship of the capitalist class.

Not all of these
arguments tenable

B. Merits of democracy

While admitting that democracy has a few defects, it must be emphasized that it has great merits as well. Sir Winston Churchill once said jokingly that England is the worst place to live in, except the others. We may say similarly that democracy is the worst form of government, except the others.

In the first place, democracy, by treating all men equally and by ignoring differences upholds the doctrine of Natural Rights and opens up avenue of equal rights and opportunities for all to enjoy. Democracy recognizes the principle that all men are born free and with equal rights. Democracy provides for equal rights and liberties for all in matters of the state. This is why in democratic constitutions the principle of equality has been recognized in the running of administration and in dealing with the right of citizens. The atmosphere of equality helps to develop the character and personality of the individual and narrows the gap between the master and the slave. Abraham Lincoln's immortal words may be recalled—I *shall not be anybody's slave, I shall not enslave anybody*.

Secondly, in democracy there is no unbridgeable difference between the rulers and the ruled. The keynote of good government, according to Bentham, lies in equating the interest of the rulers with those of the ruled and in trying to aim at bringing the welfare of the common people. Democracy alone can bring about what Bentham calls the greatest good of the greatest number.

Thirdly, in the democratic form of government, the governing group are elected by the people. They are responsible to them and

can be changed by them. Thus the real and absolute power in such a form of government ultimately resides in the people. In other words, democracy ensures the sovereignty of the people.

Fourthly, democracy gives more importance to man than any other form of government. In democracy all men are equal irrespective of caste, creed, class and sex. The democratic system of government seeks to develop the life and personality of every individual. Tocqueville, therefore, says *No political form has hitherto been discovered which is equally favourable to the prosperity and development of all the classes.*

Fifthly, unity and co-operation among men is the basis of democracy. The democratic government gives considerable importance to co-operation, fraternal feelings and goodwill.

Sixthly, in democracy the opinion of the majority is the most important factor in the running of the government. But the minorities are not altogether ignored. The opinions of the minorities also are duly considered in democracy. The minority views are expressed in meetings and conferences, in discussions and newspapers. And the democratic governments take cognizance of them while framing laws or executing them.

Finally, democracy inspires in men balanced and healthy nationalism and patriotism. As a result, a well-organized society takes shape. In the history of civilization and man's social and political development the contribution of democracy is great and cannot be overlooked.

3.5. Conditions for the Success of Democracy

It is not to be doubted that the democratic form of government has several defects as we have seen above. And if these defects

can be removed, a high ideal and a good sense of values can then be established. Democracy, if successful, can really be a very desirable system. This leads us to the discussion on the conditions which can make for the success of democracy. John Stuart Mill says that democracy can be successful in any country if three basic conditions are satisfied.

Mill on conditions
for success of
democracy

First, the people of a country must have the capability and sincere desire to have a democratic form of government. Not all

nations are desirous of having this form of government. There must be a feeling among the people that the democratic system is suitable to their country and that they need this system greatly. They must also have the mental preparedness and mental abilities to have this system. In democracy all men are regarded as of equal standing. All tendencies to impose one's own views on others must be forsaken. Nobody should influence others' reasoning by any means. Democracy will succeed wherever such unselfish and free mentality has dawned.

Secondly, the people must be prepared to save the democratic ideal whenever the democratic government is in danger or whenever the democratic ideal faces any crisis. It is not enough that the citizens should be willing to protect individual liberty and rights, but they must also be active in protecting them. Any crisis of the democratic system must be regarded as their own crisis too. It is only too natural that a handful of selfish and power-loving people will use state-power in their own narrow-interests if the vast majority of the people are ignorant, apathetic and callous. To make democracy a success, therefore, there must be in the minds of the people at large the desire and firm volition to hold high and protect the democratic ideals.

Thirdly, to ensure the success of democracy the citizens must perform their duties sincerely and seriously. Apathy and aversion to duties will punch holes in the democratic system. It is, for example, a democratic right of the citizens to vote their representatives to the assemblies. This right involves a duty also. It is the duty of the citizen to cast his vote for the best candidate; must choose the person who in his view will best represent the people. He must rise, while voting above considerations of personal gains. The citizen must not, for example, evade taxes and sell his votes.

Apart from these conditions, Mill has referred to certain dangers and infirmities from which democracy suffers and which must be removed in order to make democracy successful. If the majority rules the country without any regard to the minority or rides roughshod over the latter then democracy will become a tyranny of the majority. So the minorities also should be properly represented in every democratic state. No democratic state should invade another country or found colonies and empires. For, imperia-

Dangers and infirmities
of democracy

lism and colonialism are absolutely incompatible with democracy. Imperialistic outlook destroys the democratic ideal and democratic values.

A healthy, powerful and developed public opinion is absolutely essential for the success of democracy and a good political education is needed to organize effective public opinion. According to

Public opinion Aristotle it is the duty of every state to educate its citizens in accordance with its ideals. Lack of education will mar the people's sympathy for democracy. Education will give their love of democracy a logical basis. Want and irresponsibility are dangerous to democracy.

In order to make democracy successful, it is necessary to remove the economic inequalities and infirmities of the country. To the starving citizen liberty carries no sense. Again, mere provision for daily bread will not make democracy successful. Economic inequality will engender class antagonisms and class struggles. If the mills and factories as well as lands are owned by a handful of wealthy and powerful men, then state power also will be appropriated by them. This is inevitable. Such a country is divided within itself. That is why some critics have said that there must be another condition for the success of democracy. According to them private property should be abolished and in its place a socialistic economic structure should be created.

In the seventh place, tolerance is an important condition for the success of democracy. In a democracy there may be different opinions, and outlooks, different parties and principles. The healthy competition among these for the people's support strengthens the basis of democracy.

Eighthly, the people must be very vigilant in guarding the democratic ideals and principles. Eternal vigilance is the price of democracy. Democracy cannot be a success in a country where the people are apathetic and do not care about what might happen.

Ninthly, the democratic system must crumble in a country where the people are uneducated, sensible and sensitive. The electorate must be conscious about their rights and about democratic values.

Finally, a responsible, powerful and capable opposition party is an important condition for the success of democracy. In the absence

of such an opposition, democracy may turn into the dictatorship of an individual or a party. Moreover, an opposition party provides the people with an alternative in case they do not like the party in power.

3.6. Are the conditions for the success of Democracy present in India ?

In the preamble to the constitution of India there is a pledge to make India a Democratic Republic. There is also a promise to secure to all its citizens equality, liberty and justice. Mere promises are not enough. We must fulfil the conditions for the success of our democracy. We must keep our promises. We will see now how far are these conditions there in India ?

In the first place, the vast majority of Indians are either completely illiterate or are virtually so. The huge illiterate masses are often a prey to intimidation or misrepresentation. They are politically insensible and callous. Democratic principles and ideals do not mean much to them. There is no such thing in India as the thrust for democracy.

Secondly, there are in India many languages, religious beliefs. There has unfortunately grown up a tendency of intolerance. Regionalism, communalism and sectarianism have raised their heads on a number of occasions during the past years. But tolerance, we know, is an essential condition for the success of democracy. This condition thus is very much wanting in our country.

Thirdly, there is no powerful opposition party in the Parliament. In other words, there had been no powerful opposition in Centre as an alternative to the Congress Party. Such a situation is likely to destroy the basis of democracy. Only recently, a few all-India political parties merged and formed the Janata Party and captured power. But due to defection within three years the party lost majority in the Parliament and resigned. Now the Janata Party is divided into four. So the position of the opposition in the Parliament remains what it was.

Fourthly, public opinion is an important condition for the success of democracy. But this public opinion must be healthy, powerful, honest and developed. In India, of course, it is difficult to form such a public opinion. The press, the radio and television and the

political parties interpret and present facts according to their own needs. They always serve the interests of the classes they represent. The majority of the people are unable to understand and explain things for themselves. They fall back upon these agencies. But the agencies are not that honest and candid.

Finally, economic security is another condition that makes democracy successful. But this is very lacking in India. We do not have economic security and stability; we do not have equal opportunity; most of our people live below the subsistence level. To such a mass liberty and democracy do not mean much.

So, from the above analysis, it appears that most of the conditions that go to make democracy a success are absent in India. But owing to a long struggle against imperialism, there has developed in India an anti-imperialist, anti-fascist and anti-authoritarian outlook. The people, by and large, seem to be aware that democracy is the only choice for them. This awareness saves Indian democracy.

3.7. Dictatorship

Dictatorship is an alternative to democracy and completely opposed to it as a form of government. When a person or a group becomes very powerful and seizes that power and thereupon governs that state according to his or the group's wish paying no heed whatsoever to the wish of the people, it becomes a Dictatorship. In the dictatorial form of government the dictator regards himself as absolute sovereign.

Dictatorship is not wholly a modern phenomenon. It existed in former times also. Alexander the Great of Macedon and Napoleon Bonaparte of France were very famous dictators.

The two World Wars have given rise to several naked and hateful dictatorships. In Italy and Germany two of the world's worst party dictatorships were established by Mussolini and Hitler respectively. In course of time party dictatorship in these two countries got themselves transformed into personal dictatorship. These dictatorships have been great invasions upon the modern democratic ideals. Another very ugly sort of dictatorship in modern times has been general Franco's (who died a few years back) dictatorship is Spain.

Post-war dictatorships
in Italy, Germany
and Spain

The chief principle of dictatorship seems to be—one nation, one state and one leader. In a dictatorship all are bound to pay allegiance to the state. A dictatorial form of government brooks no opposition parties. As Mussolini stated : *Everything for the state, nothing outside the state.* The dictator is the supreme dictator of every governmental work and everything else. He is the supreme legislator ; he is the supreme executive and judicial authority also.

In a democracy the state is regarded not as an end but as a means to an end—the end being the all-round development and welfare of the people ; the individual in a democratic system does not exist merely for the state. Dictatorship, on the contrary, compels the individual to be completely subservient to the state. The dictator should be followed uncritically and party mandates are to be accepted without the slightest murmur. Individuals are by no means free to express their opinions. All sorts of freedom are gagged, all voices of dissent silenced by force.

In a dictatorship various social ideas do not usually find expression. Rather, all citizens are thrown in one mould. By continual campaigns an imaginary wonderland is painted in men's minds. This is called myth-making. By controlling the educational institutions, the campaign media, the army and the espionage network, a blind attraction towards the dictator is created. By steps, uncritical devotion to the dictator becomes a very obvious practice, Mussolini said, *We have created our myth. The myth is a faith, it is a passion, Our myth is the nation.....* In this way, dictatorship substitutes blind obedience, racialism or ultra-nationalism and militarism for reason, humanity and cooperation.

We came across two types of dictatorship in the modern world. The common western type of dictatorship preserves private property and thrives on the oppression of peasants and wage-earners. Usually in such a type the leader of a party becomes a dictator. The Nazi dictatorship in Germany and the Fascist dictatorship in Italy are two paramount examples of this type. Dictatorships are there in Greece and Spain also.

A completely different types of dictatorship is there in the Soviet Union. The dictatorship that has been established there is the dictatorship of the proletariat. In such a dictatorship the peasants

and wage earners form a party and seize state power to establish the dictatorship of the proletariat. The dictatorship of the proletarian party continues until the people have progressed well in agriculture, industries, science and culture. There are fundamental difference between two types of dictatorship. In the common western type, power is exercised in the interest of a few men or in that of a party : it becomes imperialistic in nature and embodies the militarist doctrine. The second type is in the main a one-party rule in a classless society. It serves the interest of the poor. It tries to effect speedy economic, social and moral development of the people.

Causes for the rise of dictatorship

The question why there arose dictatorships in Europe after the first World War is a pertinent one. Several direct and indirect causes may be attributed to the rise of dictatorship in Europe. In the first place, during the War a great amount of power concentrated in the state and this naturally weakened the democratic governments and curbed individual liberties.

Secondly, the War led to great hardships. Starvation and insecurity were universal. The rich became richer and the poor poorer. There was no clear idea of how socialism could be developed. Men became eager for any change. Life became absolutely unbearable. The Nazis and the Fascist parties, for example, took advantage of this feeling and held out bright prospects for the future.

Thirdly, men considered the legislatures to be platforms for high-sounding speeches. They wasted money, energy and time. Delay, corruption and inefficiency were associated with democracy. In contrast, dictatorship appeared to be more efficient and quick-acting.

Fourthly, the peace treaties which ended the war were highly insulting the unpalatable to those on whom they were imposed. The dictator posed as the saviour of the country and the avenger of the insult. It was easy for him to use the public indignation for his own end.

Fifthly, in some countries the capitalist classes, in order to crush the communists and preclude them from assuming power, helped

the dictator with power and money. They had no scruples for democratic principles. All they wanted was to curb the power of the communists and the poor people. This exactly happened in Germany.

Apart from these, there were also several indirect causes of the rise of dictatorships in Europe. The first indirect factor is the centralization of huge power through the radio, press, cinema and the aeroplanes, the railways.

Secondly, the present day education does not teach the youth to think independently but teaches them how and what they should think.

Merits of dictatorship

There are certain apparently bright points about dictatorship that easily mislead people into favouring its cause. The first merit of dictatorship is the quickness with which it works. In a democracy much time is spent in discussions and deliberations. But in a dictatorship speedy work is possible because the dictator does not usually discuss with any Council or Parliament. He takes his decisions all by himself. He is not impeded or delayed by constitutional rules. Secondly, a dictatorship appears to be a better guarantee for national unity. Dictatorships do not tolerate opposition parties and thus party strifes do not stigmatise national life. George Bernard Shaw once said—*The state governed by the people is an unimaginable impossibility.* Thirdly, the common mass are easily swayed by propaganda and slogans. They like to be ruled by a supreme leader. Psychologically they show great predilections to worship heroes. And dictatorships are just the thing they want. Finally, under the dictatorial form of government economic, social, scientific and cultural developments are made with amazing speed.

Defects of dictatorship

These apparent merits notwithstanding, the grave defects of dictatorship cannot be overlooked. Under dictatorship individual liberty is suppressed. It is based on brute force. It stumbles the development of a nation's personality—i.e., the national qualities. Public opinion cannot be formed and organized properly under this form of government. Dictatorship becomes as a matter of course imperialistic. And this threatens to disrupt international peace. Dictatorships have not succeeded in staying possibly owing to this.

Our age is an age of dawning political consciousness. People with mature senses are not prepared to renounce their liberties and rights and to be mere pawns at the dictator's hands.

3.8. Democracy Versus Dictatorship

That democracy has several defects cannot be doubted. These defects are as follows : 1. democracy cannot produce politicians of great stature ; 2. it introduces party rule and curbs individual liberty ; 3. democracy, in trying to please many, sometimes adopts wrong policies ; 4. the Parliaments in a democracy often waste time in useless talks and deliberation, thus delaying action ; 5. democracy ensures the supremacy of the legislature but there may not be sufficient number of law experts in the legislatures ; 6. democracy is often marked by party strife which harms national unity and wastes money, energy and time. The rise of dictatorship has been largely due to these infirmities and defects of democracy.

But the defects of democracy are not incorrigible. The democratic principles and ideals are the highest and the noblest in the world now. We should try to make democracy successful. Democracy will succeed if the inequalities among different classes of a country are removed, if some sort of socialism is established.

Dictatorship may succeed or may be favoured on military grounds or for some other reasons. But dictatorship cannot be a permanent system. Dictatorship is never an alternative to democracy. Dictatorship imposes compulsion and suppresses liberties. Democracy substitutes cooperation and voluntary work for compulsion and force ; democracy ensures liberty and rights. Dictatorship is marked by the oppression of one class over the others. It is to be remembered that in the so called Western democracies we see the dominance of the wealthier classes. Democracy is not the tyranny of any class ; it is the most respectable and noble ideal the world has known so far.

3.9. Future of Democracy

The great democratic struggle of the eighteenth century for liberty and equality has in this century transformed itself into a vaster and a more powerful struggle for economic rights and for the establishment of welfare states. The forces of Dictatorship, Monarchy and Individualism have been submerged by the tremendous deluge

of democratic ideas and ideals. The modern age is markedly an age of Democracy. In all our thoughts, our education and our work we are profoundly influenced and inspired by the democratic consciousness and ideal. The conversion of a great number of states to the democratic principles leaves us in no doubt that the future of Democracy is very bright indeed.

Some, of course, think that Democracy has been of late in a grave peril. For, it has failed to fulfil man's expectations. It has not been able to establish economic equality; it has not been able to remove economic inequalities. It has, therefore, been seen that political or constitutional democracy has been established even in the capitalist economic system. Moreover, the consciousness and initiative of the citizens which is essential to make democracy a success has been lacking in most countries. As a result, the apprehension that democracy may fail at the end is quite widespread. Lloyd, therefore, thinks that *Democracy is in danger of growing stale through the laziness of its members.*

It is not to be doubted, anyway, that Democracy has its shortcomings, that it is not free from loopholes. For, the conditions for its success are not satisfied duly. But should we be absolutely hopeless? Lord Bryce, of course, discusses the matter in quite some details in his book *Modern Democracies*. He says that the numerous experiments in modern times have proved without doubt the efficacy and usefulness of Democracy. He says, moreover, that no form of government in fact can remove the shortcomings of man's character and every other form of government has its defects. But in uprooting social evils like poverty, misery, insecurity and injustice, and in developing the individual's qualities Democracy has greater possibilities than any other form of government.

Bryce has said aptly: *However grave indictment that may be brought against Democracy, its friends can answer, what alternative do you offer?* This points to the inescapable fact that in spite of all its defects and infirmities, Democracy is still the only acceptable form of government and is destined to be universal. If we banish Democracy, we will have to invite either Monarchy or Aristocracy or Dictatorship. This is, however, hardly possible. For, from the points of view of ideal and quality, they are far inferior forms to Democracy. So, as long as a form of government definitely better than Democracy in every respect does not emerge, we must hang on to Democracy. And as such there is no alternative to Democracy as yet.

Exercise

1. Define Democracy. What are its different forms? (3.1 and 3.2)
2. "Democracy may be classified broadly, under two distinct divisions—direct and representative."—Explain with illustration. (3.2)
3. What is meant by Direct Democracy? Analyse the merits and demerits of Direct Democracy. (3.2) [H. S. C. '80, 83]
4. Discuss the merits and demerits of Democracy. (3.3)
5. What are the conditions for the success of Democracy? Are they present in India? (3.5 and 3.6) [H. S. C. '79, 85]
6. What is dictatorship? What are its merits and demerits? (3.7) [(H. S. C. '80, 84]
7. Write a note on the future of Democracy. (3.9)
8. What are the arguments advanced against the democratic form of government? What are the conditions essential for the success of democracy? (3.4 and 3.5)
9. Define democracy and classify it. (3.1 and 3.5)
10. Distinguish between Democracy and Dictatorship. Which of these, according to you, is preferable and why? (3.4 and 3.8) [T. S. B. '82]

Objective-type Questions

1. How did Abraham Lincoln define democracy?
2. How many kinds of democracy are there?
3. Name one Fascist and one Nazi dictator?
4. Where do you find dictatorship of the proletariat?

"The essence of Government is Executive. The Legislature and Judiciary are merely the instruments for constitutionalising it."

—Corry.

CHAPTER FOUR

Organs of Government

4.1. Different Organs of Government and their Functions

The powers and functions of government are divided into three branches. There are three organs that are charged with these functions—the *Legislature*, the *Executive* and the *Judiciary*.

The organs and their functions

Laws are made in order to establish order and discipline in the country. This task of lawmaking is entrusted to the Legislature.

Bills are passed in the Legislature by the majority vote of the members. Bills thus passed become laws. The duty of the Executive is to apply and execute these laws and run government in accordance with these laws. Those who commit infringement of laws are committed for trial before the Judiciary. The Judiciary punishes the law-breakers. Judges hear a case and decide whether a person is really guilty or not. If they find him guilty of an offence, they punish him according to the laws of the country.

The functions of these three governmental organs can be made clear with the help of an example. Let us suppose that the Parliament enacts that if anybody steals other's belongings he will have to

suffer imprisonment for a term of six months. The purpose of introducing such a law is prevention of theft.

An example Now, let us suppose again, that a thief gets caught in his attempt to steal. The police will arrest him and take him to the police station. The police and the police station are part of the Executive. The Executive, we have said above, rules according to the laws of the country and sends the alleged person to the court. Now the thief is sent up to the court for trial. There are judges and other officials of different descriptions and orders in the courts. The judge will try the case of alleged thief. Evidences will be taken and heard. The convict also will be given a chance to defend himself. After hearing all arguments in favour and against the judge will decide whether the convict is really guilty or not. If the judge finds him guilty he will sentence him to, say, six months' imprisonment. And if he finds him innocent he will acquit him. This example reveals the functions and duties of the three organs of government.

The Marxists, however, believe that the division of state powers into three organs—Legislature, Executive and Judiciary is of no importance, since in reality it is the same class (elite group) who exercise the powers of all the three organs.

4.2. The Theory of Separation of Powers

The ancient king had unlimited power. The subjects had no individual liberty. The king made laws according to his own will and pleasure. Nobody could question whether those laws suited them or not. The king himself, aided by his army and other officials and courtiers, executed the laws which he had made. Thus the king was the supreme law-giver as well as the executive. Not this was all. He apprehended anybody whom he considered to be guilty and himself tried him. The king thus in those days kept all powers in his hands. All legislative, executive and judicial powers were centralized in his hands. Obviously under such a system the ruler tends to be autocratic and tyrannical.

The theory of Separation of Powers has emerged as a strong and loud protest against such an unwanted system. Far away in the past, Aristotle hinted at the advisability and necessity of separating governmental powers. But the first modern scholar to found the theory on scientific basis is Montesquieu who in his *The*

Montesquieu and
Blackstone

Spirit of Law in 1748 gave a very clear, thorough and powerful exposition of the theory. Montesquieu may be regarded as the chief exponent of the theory of separation of powers. Another formidable exponent of the theory of Separation of Powers is the British constitutional expert Blackstone.

In Montesquieu's view, complete separation of powers among the Legislature, the Executive and the Judiciary is necessary. This necessitates the entrusting of powers of the different organs in the hands of different persons or different sets of persons so that one organ cannot influence another.

In other words, the doctrine of separation of powers calls for the distribution of powers among the independent branches of government. It requires organizational arrangements, which enable each branch to exercise its designated powers without being obliged to submit to the dictates of others. None of the several branches is superior to the others, none is answerable to the others for the use it makes of its discretionary powers. Powers, responsibilities and controls are dispersed rather than centred in one place. The theory stands for making the different branches of government independent of one another.

If the executive is charged with legislative functions, then tyrannical laws will in all possibility be introduced which will rob the people of individual liberty. If the executive, again, is entrusted with judicial duties, there will be mere parodies of justice. Individual liberty will be in danger in this case also. Similarly, if the judicial and legislative powers are concentrated in the same hands, the right to life and liberty of the citizens would be arbitrary; for the judge would be the law-maker.

Montesquieu's theory of separation of powers rests on three propositions; (1) one organ will not perform the functions of another organ; (2) the same person or body of powers will not look after the affairs of more than one organ; (3) one organ will not control the functions of another organ. Montesquieu, while urging the necessity of separating powers of governmental organs as a safeguard of liberty, was impressed by the system of government in Britain where, he thought, there had been no misuse of governmental powers because of Britain's acceptance and implementation

of the scheme of separation of powers. But it must be noted that Montesquieu was mistaken in saying that separation of powers did exist in Britain. In fact, the cabinet system as found in Britain stands as a negation of the principle of separation of powers.

If the legislative and executive powers are united in the hands of a ruler and also, if he has the authority to try and punish the law-breakers, then he may well become oppressive. He can very well punish any person to wreck his vengeance. If, for example, a minister issues an order to the court to the effect that a particular person be punished and if the court obeys the minister's order then there can be hardly any doubt whatsoever, that nothing will remain of justice. Or, for that matter, if the Prime Minister orders the Parliament that a particular law be passed and if the latter readily complies with it, then Democracy will find its place on the ground.

So it is desirable that the powers of the different organs of government should be clearly defined and separated. No organ will be subservient to any other organ. Each will have its separate sphere and each will resist the tyranny of the others. For, *from the very nature of things power should be a check to power*. This will safeguard individual liberty. Montesquieu considered the separation of spheres and powers of governmental organs highly necessary for safeguarding individual liberty. To quote his own words: *The three powers then must be separated, exercised by different individuals in such a manner as to act as checks and balances upon one another*.

Montesquieu's theory of separations of powers is closely linked with the theory of checks and balance. Balance is possible when the organs of government are independent and separate and exercise influence on one another in an equal way. We must bear in mind the fact that mutual influence is possible in a healthy way only when each organ is of equal power and status.

Of course, Marxists believe that the three organs are in reality in the charge of the same class—the class that is in power.

Criticism

The theory of Separation of Powers is not devoid of some solid argument, but in practice it is extremely difficult indeed to apply

the principle and even if applied, it is still more difficult to maintain the strict separation of powers. In fact, complete separation of powers and functions is neither feasible nor desirable. In modern times, the welfare works and activities of government have so enormously increased and the administrative system has become so very complicated, that no organ can work successfully and efficiently by itself and without the help of the other organs. It is impossible for one organ to get going without the co-operation of the two others.

Bluntschli has compared the government with the human body. Just as death of a living being is inevitable if the head is separated from the body, so if the organs are separated the government will meet its death. Legislature, Executive and Judiciary are but three limbs and parts of the government. As the Government compared to the human body, body cannot live without the cooperation of the other parts of the body, similarly government will come to a standstill if there is no cooperation among the three organs of the government. Laski has pointed out that the modern Legislatures often carry out functions that are executive and judicial in character; the Executive, too, especially in our time, performs work that cannot be distinguished from legislative functions; and similarly, the Judiciary often performs executive and legislative functions.

Montesquieu has mistaken three departments or organs of the same Power for 'three kinds of powers.' These organs are not unconnected and unrelated, they are closely related. "Insulated rather isolated—the current from the central power-house taking the form of law and the political process, runs equally through all of them."

In John Stuart Mill's view, a difficult deadlock will result if the organs of government are completely independent and have strictly demarcated spheres. For, each organ in that case will try only to preserve its own interests and perform its own duties. This surely bring down governmental efficiency. Laski also believes that if the Legislature, the Executive and the Judiciary are completely separated, then each organ will avoid responsibility and seek to devolve it on others. Separation of Powers will give rise to conflicts and confusions.

According to some critics, the welfare activities of modern
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states and the administration in general make it impossible to adopt the principle of separation of powers. The complexities of the

The principle not applicable in case of welfare state

theory will defeat the purpose and frustrate the ideals of the Welfare State. In the modern state the place of the Legislature is above the other organs. The Legislature does not merely

make laws, it performs executive functions as well. In some states the Parliament has been given sovereign power. Montesquieu considered the three organs to be possessed of equal power. But this is not warranted by facts. In fact, in most modern democracies the Legislature is more powerful than the other organs. So this error

The organs not of equal power

in Montesquieu's conception has made his theory vulnerable. In the opinion of Barker, however, the supremacy of the Executive is

noticeable in modern times. The Executive uses its authority and power to make laws indirectly. Thus, from this point of view also Montesquieu's idea that all the organs of government have equal weight and power is erroneous. The separation of authority and powers will in the circumstances only be a drag on the speedy and smooth conduct of governmental functions.

In our time, there have occurred great changes in the activities and functions of the government. On many an occasion, the Executive has to make laws. The Parliament is not in session for a

All organs have to perform various functions

long time. The Parliament may be adjourned after a session and the another session may reopen after a lapse of, say, two months. Now it may be that some kind of a law is impera-

tive within this period of two months when the Parliament is not in session. The Executive has to enact laws provisionally to suit its purpose. The Judiciary also can make laws. The judges can, if they think it proper and necessary, make laws by giving new interpretations of the existing laws. Similarly, the Legislature also sometimes performs judicial functions. The President and the Governors are tried by the Parliament if such eventualities occur.

In the Cabinet form of government as it obtains in England; the relation between the Executive and the Legislature is so close

The principle is not applied in practice

that there is little or no separation of powers there. The ministers control the Executive but are members of the Parliament are responsible to it for their actions. Thus in Britain powers of the

government have not been separated as contemplated by Montesquieu though the British people enjoy the maximum amount of liberty. Hence separation of powers is not essential for liberty. Rather eternal vigilance is the price of liberty.

The President of India can, as the head of the Executive, proclaim emergency. Until a few years ago, the district magistrates had executive as well as judicial functions. The district magistrates are the executive heads of the districts and they try criminal cases as well. Though the principle of separation of powers has been accepted in the U.S.A. yet there also we notice a close relation between one organ and the other. In fact, this is unavoidable. Thus if Montesquieu's principle is accepted and applied, that will result in too sharp a division of powers and responsibilities and will engender conflicts and bring about administrative deadlocks.

It is seen, therefore, that critics have grave doubts about the possibility and feasibility of the theory of separation of powers.

The principle of separation of powers cannot be applied in practice. In no country has the principle been applied absolutely. Had it been necessary as a safeguard of individual liberty, it would have surely been applied in some countries. The principle of separation of powers has served a useful historical purpose in that it has brought individual liberty to the forefront and has made it an important duty of governments to safeguard it.

4.3. Application of the Theory in Different Constitutions

We will do well here to see to what extent has the principle of separation of powers been applied in the constitutions of the U.S.A., the U.K., India and the U.S.S.R.

A. *The United States of America*

We have said above that the principle of separation of powers has been adopted in U.S.A. But the constitution of the U.S.A. however, does not specifically mention it. The Supreme Court of America has recognised the doctrine of separation of powers as a fundamental principle to the government. As Dr. Finer has said, whether influenced by the theory of separation of powers, or in order to ensure the security of individual liberty, the framers of the American constitution have recognized the principle.

The American President, the Supreme head of the Executive,

is elected not by the Legislature but indirectly by the people. He is not responsible to the Congress and does not participate in the proceedings thereof. Of course, he can send his messages to the Congress if administrative necessities so demand and can even address it. He can, moreover, annul or veto any law passed by the Congress. The U.S. President thus can exert his influence on the Legislature and can get some of his own schemes sanctioned by the Congress. In the American constitution, therefore, there is no complete separation of powers.

The U.S. President is the executive head, but he appoints the judges and can commute the sentence or pardon a criminal. On the other hand, the American Supreme Court can challenge the legality and fairness of law passed by the Legislatures, and can even invalidate outright any laws passed by the latter. These constitutional provisions are surely contrary to the principle of separation of powers. It is, in fact, impossible to apply the principle in absolute terms. For it will then bring about a constitutional deadlock. The U.S.A., therefore, has applied only a partial separation of powers.

B. Britain

On the face of it, the constitution of Britain seems to have accepted the principle of separation of powers. The King or the Queen governs with the assistance of the Cabinet; the Parliament makes laws and the Judiciary acts independently. But this is not so in practice. A close analysis and study will reveal that the three organs of the government are closely related to each other and the principle of separation of powers has been virtually rejected in Britain.

In practice, it is the British Cabinet or the Council of Ministers which controls or guides the Parliament. The bills that are passed by the Parliament are in fact determined, accepted and passed by the Cabinet beforehand. Though the King or the Queen possesses the highest executive authority, he or she in reality is required to assent to the bills passed by the Legislature before it becomes an Act. He or she can, moreover, commute sentences and issue pardons to criminals who have been sentenced by the Judiciary. The Lord Chancellor, even being the member of the Cabinet or the Executive, presides over the House of Lords, and acts as the head of

the Judiciary. These prove unequivocally that there is no real separation of powers in Britain.

C. India

Though the three organs—the Executive, the Legislature and the Judiciary—have been separately shown and described in the constitution of India, there is actually no separation of powers in India. The President of India is the executive head but he assents to the bills passed by the Parliament to make them laws. He makes laws in times of emergency, appoints the judges, commutes sentences and pardons sentenced convicts. He can, if necessity arises, dissolve the State Assemblies and Ministries and can thereby introduce President's Rule. Thus the President of India has not only executive but also legislative and judicial powers. The ministers in India not only enjoy executive powers, but they are also members of the Parliament. In fact, it is the Cabinet which guides the proceedings of the Parliament. The Prime Minister in particular, does not merely exercise executive powers; even the Parliament runs on the Prime Minister's advice. The Prime Minister of India is the leader of the Parliament. Indian district magistrate or sub-divisional officers are not only executive heads of districts or sub-divisions, they also used to try criminal cases as judges. Thus in India in three organs of government are not separate but are inter-dependent and inter-related.

D. The Soviet Union

From the Marxian point of view, there is no need to separate the Executive, the Legislative and the Judicial organs of Government. This is evident in the constitution of the U.S.S.R. We may take the example of the Soviet Presidium. The Presidium is elected by the Legislature but its powers are both executive and legislative.

4.4. The Executive

The organ of Government that executes the laws passed by the Legislature is known as the Executive. In other words, the Executive runs government according to the laws of the country. The Executive is formed in a number of ways. In some countries there is a King at the head of the Executive and in some others there is an elected President. They are called the Chief Executive. The British King or Queen, the Indian President and the American President are the Chief Executives of their respective countries.

In the Cabinet form of government the King or the President has no real powers. The Cabinet wields real and effective authority.

The Executive may be formed in different ways. The ministers will continue to exercise power so long as they enjoy the support of the majority in the Parliament. But in a

Presidential form of government it is, however, the President who commands real power. He is elected by the people or their representatives. The President of India is elected for five years, and those of the U.S.A. and France for four and seven years respectively. But in both India and France the form of government is Cabinet and so the Presidents of these two countries do not have real power. In the U.S.A., however, the President has the real governmental power. He appoints ministers to get things done more easily and smoothly but they do not act of their own and only do what the President asks them to.

The Executive is composed of ministers of different departments and thousands of other officials, high and low. Every

Constituents of the Executive minister is in the overall charge of a department and has a huge staff under him. The highly placed permanent government staff

are recruited through competitive administrative service examinations. The high administrative officers run the administration with the help of a host of subordinate staff. But it should be remembered, any way, that the head of the state—whether he is a mere constitutional head or a real head—is the principal administrator.

Functions of the Executive

Professor Garner has made a classification of the functions of the Executive. According to him these functions are (1) Diplomatic, (2) Administrative, (3) Military, (4) Judicial and (5) Legislative.

Diplomatic

The diplomatic functions of the Executive can be of three kinds: (a) to make the country adequately represented in matters of international relations; (b) to appoint diplomatic representatives and accept those of other countries; and (c) to make treaties and agreements. Heads of the states appoint ambassadors and other diplomatic staff to other countries and recognize those from other

countries. If the head of state is a constitutional head, then he performs this duty on the advice of the Ministry, real head. Even in the U. S. A. the President has to get the appointments ratified by the Senate. In cases of treaties the sanction of the Legislature is absolutely necessary in almost all the countries.

The administrative functions form the principal part of the whole range of the Executive's job. The chief duty of the Executive is to maintain law and order in the country. It must make the life of the people secure. It must ensure the security of the interests of the people. For security and discipline, there are the regional Administrators and the police force all serving under the executive.

Military

In all states military powers are vested in the Executive. The Executive develops the military power and directs war for the defence of the country. In Britain even the power of declaring war has been adjoined to the Executive. The military has three wings—the army, the navy and the air force. In times of war the Executive can, if it thinks it necessary, temporarily curtail or suspend the civil and political rights of the citizens.

Judicial

The executive heads of states are given some judicial powers and functions. These include the commutation of sentence and pardon of convicts.

Legislative

The Executive has certain legislative functions. In the cabinet form of government it takes part in legislation directly and in the Presidential form of government indirectly. The duties of and responsibilities for laws, and the drafting of bills and orders are usually on the Executive and this has made the Executive partially a legislative body also. The Executive in a Parliamentary form of government prepares bills and often can have them passed by the Parliament. The Executive has the power of issuing ordinances and of delegated legislation. The Executive in some countries can reject a bill sanctioned by the Legislature by vetoing it. In the modern age as the powers of the Executive are widening, its legislative functions also are increasing.

4.5. Political Executives and their functions

The executive consists of not only the chief executive like

the Queen of Britain or the President of India, but also ministers of all categories, and the bureaucrats. Of course all members of the executive are not equally powerful or influential. Their power, functions and influence depend on the political system in which they work. There are different types and grades of executives. Gradations are made according to power, designation, etc. All are executives all the same, but a minister and a bureaucrat are surely not executives of the same class. There are two broad types of executives—*Political Executive* and Permanent or Professional Executive.

Executives like the Prime Ministers of Britain and India and the President of the U.S.A. and the ordinary minister are all political executives. Ministers are originally members

What is political executive ?

or leaders of political parties but became political executives. To become a minister more

depends on the efficiency and influence of an individual as a party-member than an administrative efficiency. Ministers are often without administrative experience. Political executives are chiefly politicians and it is politics that arm them with administrative experience and turn them into executives. They exercise executive powers so long as they are in power. That is why political executives may also be called *Non-permanent* executives. Political executives may or may not have administrative efficiency ; but they have to depend on politics and political parties. Political executives are also sometimes called *Amateur* in administration. They are called *Amateur* because their profession is not administration but politics. Examples of permanent or professional executives becoming ministers are few and far between. Politicians, legal experts, educationists, and journalists may become ministers. In general they have little or no executive experience. "The British War office", says Munro, "has been headed at times by philosopher or a journalist, the admiralty by a merchant or a barrister, and the Board of Trade by a university professor". Such instances are to be found in India too.

Laski has correctly said that the attitude of the political executive towards the administrative work is unprofessional and amateurish. They are appointed not on grounds of administrative efficiency or experience but on political grounds. Naturally, they have little experience of the department in which they are placed. They are not in the same executive posts for a long time. Fall of ministry or, changes of portfolios or resignations take

place often. And this makes it difficult for the political executives to gain experience. In a word, they are least experienced in executive work, however efficient or experienced they may be in politics.

In fact, though these political executives are very important in democracy most of them are inexperienced in executive affairs. As Paul Appleby says, "The hallmark of democracy is dominance of government by politicians popularly oriented, chosen, and accountable, and those skilled in popular politics are inevitably and desirably amateurs in everything else".

They are, on the otherhand, executives in every country who are not amateurs or temporary like the political executives. This class of executives are non-political, permanent, professional and experienced. All civil servants starting from secretaries are executive of this type. In everything from exerting pressure on policy formulation to keeping the governmental machinery running their active role is very much felt.

In fact, the modern government is a *government by professional administrators*. There are two reasons for the importance of the civil service in running the government machinery. In the first place, it is not possible for a handful of inexperienced political executives to continue the governmental process. Secondly the efficiency, experience and impartiality of the bureaucrats make them indispensable. Thirdly, administration is becoming more and more technical and specialised. So specialised knowledge and experience are two essential requirements for the administrators which the political executives often lack.

Functions of Political Executives

The traditional areas of executive action, such as foreign policy, defence and internal policing are no longer valid to-day. The functions of political executives of modern world can be described in the language of Public Administration in one word POSDCORB coined by *Luther Gullick*. POSDCORB is an abbreviation. Here P stands for *Planning*, O for *Organization*, S for *Staffing*, D for *Directing*, CO for *Co-ordination*, R for *Reporting* and B for *Budgeting*.

Some scholars, however, want to specify the functions of the political executives in three broad categories. These are : *Policy*

formation, Planning and Organization. Others add a few more, such as, *Decision making, Co-ordination and Leadership.*

In view of the above, we propose to discuss the functions which political executives usually discharge under the following heads :

1. **Policy Formulation :** Paul H. Appleby thinks, that policy formulation is the essence of governmental activity. *A policy is verbal, written or implied basic guide to action that is adopted and followed* in the governmental process. Policy is the guide line on the basis of which government programmes are framed. It is the political executives who play decisive role in policy making. The scope of policy formulation is very wide. It ranges from enactment of laws to various other matters related to defence, finance, foreign affairs, social justice, education, etc.

2. **Enactment of Laws :** In a broader sense policy formulation includes enactment of laws. But still it deserves separate treatment. Enactment of laws within the normal jurisdiction of the Legislative organ of the government. But the political executive, specially under cabinet form of government, summons the legislature, takes the initiative of raising the Bills and getting them passed. The rise of the executive and the decline of the Legislature become manifest in this process.

3. **Planning :** Planning is the basis of the various governmental activities. Planning is preparation for action ; it is the process of determining the objectives of administrative effort and of devising the means calculated to achieve them. Governmental policies and decisions emerge and originate from planning and it is the political executive who makes plans. The political ideology and belief of the political executives shapes the plan and fixes priority in implementation.

4. **Management of National Economy :** The management of national economy is the largest and most important category of all governmental activities performed by the political executive. There was a time when management of national economy was confined to the imposition of taxes and spending of the money so collected. But the increasing demand for social justice, acceptance of planning, budgetary problems, establishment of government enterprises, etc. have changed the old idea of the management of national economy.

5. **Organization :** The success of the smooth functioning

of the modern *big government* rests on the establishment and working of the organization. The political executive performs this function. When we speak of organization, we have in mind the large-scale organized or formal structure of agencies established to perform the administrative tasks of government. Organization is a planned system of effort in which each participant has a recognised role to play and tasks to perform.

6. Formal or Ceremonial functions : The political executive performs certain formal functions in the political system such as, appointment of civil servants, judges, and ambassadors. These appointments are, however, finalised by the political executive beforehand as a part of policy formulation and now he is required to discharge the formal duty of appointment. Besides, the political executive discharges other formal functions of pardon, conferment of honours, etc.

7. Leadership : Last though not the least is the function of leadership. In fact it is this function of leadership that marks out the political executive from other types of executives. The smooth functioning of a modern state depends largely, if not wholly, on the leadership given by the political executive. This is why the word *Presidential leadership* has become so much popular in the U.S.A. Leadership implies not only guiding the bureaucrats and the people but also coordinating different organs and departments of the government. So, the quality of leadership is almost a 'must' for the political executives.

Increase of the power of the Political Executives

The power and prestige of the political executive are gradually increasing. In the present day world the Executive is not entrusted only with the maintenance of law and order. It does not merely give effect to the will of the state as expressed in the laws. It actually regulates the many-sided activities of the state. It virtually enjoys the judicial powers that are vested in the Legislature. Laws are made under the direction and by the will of the Executive. That is why it is said that the chief executive is also the chief legislator. The gradual decline of the Legislature has led to the dictatorship of the cabinet in many countries.

The political executive has also commanded enough prestige in recent years. The names of the chief political executives of different countries have become very familiar. For, we all know

that the fate of millions of people depends largely on them. The chief political executives influence the affairs of the world too. Some of their decisions and moves affect the people of the world at large.

4-6. Single and Plural Executives

Dr. Garner has divided the Executive into *Single Executive* and *Plural Executive*. If the executive authority is vested in one person or a body of persons who act collectively, it is a Single Executive. The Chief Executive of the U.S.A. is an instance of single executive. The executive power there is vested in President. There is single executive not in the U.S.A. alone but in a majority of modern states.

On the other hand, if executive authority is vested in a number of persons enjoying equal and co-ordinate powers, it is a Plural Executive. History is fraught with examples of the plural executive.

In ancient Athens the executive authority was exercised by different persons at the same time who enjoyed equal and co-ordinate powers. The constitution of ancient Rome reveals the same thing. In ancient Sparta we find the existence of two kings ruling jointly. Rule by plural executive, of course, did not last long.

In modern times we come across plural executive in the Soviet Union and Switzerland. The highest executive power in Switzerland has been vested in the Federal Council composed of seven members. Though there is a President among those seven, in practice all have equal powers. In the Soviet Union, the Presidium of the Supreme Soviet is the highest executive body. The Presidium is a collegial body that has 33 members. There is a constitutional head among these members, but all of them enjoy equal powers.

Arguments for Single Executive

Dr. Garner thinks that the single Executive works better. "A single person or a very small body of persons is better fitted for the discharge of such duties than a numerous assembly composed of many minds and entertaining a variety of views." Secondly, a single executive can work speedily. Sidgwick feels that in times of crisis a single executive can work more efficiently than the plural executive. Thirdly, from the point of view of responsibility also

single executive is preferable to the plural executive. Fourthly, in a single executive the authority and initiative remain undivided. Fifthly, in such system it is possible to keep secrets.

Arguments for Plural Executive

It has been pointed out, on the other hand, that in a plural executive there is less misuse of power. One person can misuse his power but it is difficult for a body of persons each enjoying equal and coordinate powers to misuse them. Secondly, some critics think that in a plural executive there are fewer chances of the people's rights and liberties being suppressed. Thirdly, decision taken by a body of persons is considered to be wiser and better thoughtout than that taken by one person.

It is, however, to be emphasized that when we think of finding out the errors of the government and of locating responsibilities a single executive is surely better than a plural executive. Justice Story says that *there ought to be a single executive and a numerous legislature.*

4-7. The Union Executive in India

The Cabinet or Parliamentary form of government has been introduced in India. At its head there is the President. He is the chief executive. It has been stated in Article 53 (1) of the constitution of India that "The executive power of the Union shall be vested in the President and shall be exercised by him directly or through officers subordinate to him in accordance with the constitution". This means that President is the head

Constituents of the
Union Executive

of the government. Article 74 (1) states :

"There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions". Thus the Council of Ministers is there to aid and advise the President.

But the fact is that the President of India is by and large a constitutional head like the King or Queen of Britain. So, in practice, in the Parliamentary form of Government as it obtains in our country, the Council of Ministers with the Prime Minister at its head directs and controls the effective and real executive power. But it is obviously impossible for the Council of Ministers to govern such a vast territory. So, there is a huge troop of government officials permanently in service to help the administrative work.

Thus the Union Executive in the Indian Parliamentary system is divided into two parts—the constitutional executive and real executive. The President, and, in his absence, the Vice President, is the constitutional head and the real head is the Council of Ministers under the leadership of the Prime Minister. But the Council of Ministers is not constituted permanently. The party that has a majority in the Parliament forms the Council of Ministers. So there are the permanently appointed officers for direct conduct of administrative work. The Union Executive in India, thus is composed of the permanently appointed officers for direct conduct of administrative work. The Union Executive in India, thus is composed of the President, the Vice-President, the Prime Minister, the other members of Council of Ministers and the administrative officers or the bureaucrats.

While dealing with the powers of the Union Executive, we must bear in mind that the constitution of India has adopted the federal structure. And so the powers of the Union and state Executives are clearly defined and divided. Under the Constitu-

Powers of the Union
Executive

tion, the Union Executive has powers and authority over any matter about which the Union Parliament can make laws. In the

Union List there are 97 items or subjects over which the Union Executive has jurisdiction. These include foreign affairs, defence, taxes, banking and currency, etc. Besides there is a Concurrent List of 52 subjects over which the Union and the States have joint jurisdiction. But there, too, the Union Executive can advise the State Executives on the exercise of power over these subjects and can, in certain circumstances, assume the sole authority over the concurrent subjects.

4-8. The President of India

The President of India is the head of the Union Executive i.e., the Government of India. Before entering into a discussion about the President we should know how he is elected. The mode of the President's election is rather complex. He is elected, like the President of the U.S.A. indirectly by an electoral college specially constituted for the purpose for a term of five years. After having been the president for a term of five years a person may seek re-election. Unlike in the U.S.A. where the same person cannot become

President for more than two consecutive terms, there is no such restriction in the constitution of India.

How is the President elected ?

The system of Presidential election in India is much complicated. The electoral college for the election of the President consists of the members of both the Houses of the Parliament and the elected members of the State Legislative Assemblies. Nominated members of the State Assemblies are, however, debarred from taking part in the election. Each member of the electoral college has single transferable vote.

The system of Presidential election in India has two essential parts. Firstly, it maintains a parity between total votes of the members of the Parliament and the total votes of the members of the State Assemblies—that is, if the total number of votes of the members of Parliament is 1,00,000, the total number of votes of the members of the State Assemblies too is 100,000. Secondly, as far as practicable, it maintains a uniformity in the scale of representation of different states.

The number of votes of each member of a state assembly is the multiple of one thousand in the quotient obtained by dividing the population of the state with the numbers of elected members of the Assembly. If we take, for example, the population of West Bengal for 29,400,000 and the number of legislators for 294, then each member of the West Bengal Assembly will have as many as 100 votes. This is arrived at by dividing the quotient of population (29,400,000) divided by the number of elected members (294), with 1000 i.e.,

$$\frac{29,400,000}{294 \times 1000} = 100$$

The number of votes of every member of either House of Parliament is obtained by dividing the total number of votes assigned to the members of States Assemblies by the number of members of parliament. Thus, if the number of votes assigned to all the elected members of all the State Assemblies is 4,00,500 and the number

of members of both the House of Parliament is 750, then each member of Parliament will have.

$$\frac{4,00,500}{750} = 534 \text{ votes}$$

The election of the President is held in accordance with the system of proportional representation by means of single transferable vote. Each elector casts his vote in order of preference putting 1, 2, 3, 4, etc. against the names of the candidates. And a candidate is required, in order to get elected, to secure a definite number of votes, called quota, reckoned in the following manner :

$$\frac{\text{Total valid votes cast}}{\text{Number of seats} + 1} + 1 = \text{Quota*}$$

A candidate securing the quota number of votes at the first counting naturally gets elected. But, when obtains less than the quota vote, the necessity of second counting arises. Then the person who has got the least number of first preference votes is eliminated from the contest and the second preferences in his ballots are transferred to other candidates. This process of elimination from the bottom and transference of preference continues until someone reaches the quota and is elected.**

The 39th Amendment Act of the constitution of India

*By way of illustration let us take a simple case where the number of total valid votes is 15,000, and the number of seats in one. What will be the quota ?

$$\begin{aligned} \text{Quota} &= \frac{15000}{1+1} + 1. &= \frac{15000}{1+1} + 1 \\ &= \frac{15000}{2} + 1 = 7,500 + 1 = 7501. \end{aligned}$$

**Take an example. If three candidates, namely, A, B and C, getting votes as recorded against their names :

A—6,000 Votes

B—5,000 „

C—4,000 „

Total valid votes—15,000

Number of seats—1

none of the candidates is elected at the first counting as all of them have failed to secure required votes or quota which, here is 7,501. Now, C, having secured the least number of 1st preferences, would be eliminated, and the 2nd preferences given to A and B in the ballots where C gets the 1st preference will be added to the 1st preference votes of A and B. If we assume,

provides that disputes arising out of the elections of the President, Vice President, Prime Minister and the Speaker shall not be decided by the Supreme Court and shall henceforth be decided by a Parliamentary forum of election matters relating to these incumbents. But the 44th Amendment Act has restored the authority of the Supreme Court to go into the disputes related to the election of the President and Vice-President.

The President-elect is required, before he takes office, to make an oath in the presence of the Chief Justice of the Supreme Court of India or, in his absence, the seniormost judge of the Court available. In this oath the President promises faithful discharge of the duties of the office of the President; preservation, protection and defence of the constitution and the law; and devotion to the service and well being of the people of India.

Eligibility of a person for election to the Presidency depends on the following qualifications :

Qualification for election

(1) He is to be a citizen of India ; (2) He must have completed the age of 35 years ; (3) He is qualified for election as a member of the House of the People ; and (4) He does not hold any office of profit under the government of India, government of any state, or under any local or other authorities subject to the control of the said government.

Immunity

The President of India is not liable to prosecution in any court of law for any act or deed done in the way of the discharge the duties of the office of the President. He is also, during the tenure of his office, immune from arrest and criminal proceedings.

Impeachment

The article 61 of the constitution has dealt with the procedure of removal of the President from office, known as impeachment. A charge against the President for violation of the constitution may be preferred by either of the Houses of the Parliament by

for example, that A and B get 500 and 3500 2nd preference votes respectively out of those 4000 ballots, the second counting will result in—

Votes secured by A = $6000 + 500 = 6,500$

Votes secured by B = $5000 + 3500 = 8,500$

that is, getting B (who has reached the quota) elected.

passing a resolution to that effect by a majority of not less than two-thirds of the total membership of the House. The other House of the Parliament investigates the charge. If, after investigation, it passes a resolution by a majority of not less than two-thirds of the total membership of the House sustaining the charge, the President will be removed from his office with effect from the date on which the resolution is passed.

President's salary

President's salary as well as other allowances are fixed by Parliament by law. At present the President receives a tax-free salary of Rs. 10,000/- (ten thousand) a month. In addition, he is entitled to free residence and other allowances. According to President's Pension Act, 1951, an ex-President receives a pension of Rs. 15,000 (Fifteen thousand rupees) a year.

Why indirect election ?

Our constitution-makers have chosen 'indirect election' and a quite complicated system of proportional representation for number of reasons.

Firstly, it is difficult as well as expensive to conduct a direct election of the President in a country like India where it means involvement of millions of men and women.

Secondly, under the constitution, the President of India is not more than a constitutional head. But, if elected directly by the people, he may, quite logically, demand real powers which will obviously mean taking away of power from the Council of Ministers and consequent repudiation of the system of Parliamentary government as a whole.

Thirdly, the system of the election of the President, though an indirect one is very much democratic in view of the fact that the electoral college, consists of all the representatives of the people ignoring the question of party affiliation. Further, the 'quota' system increases the possibility of election on a true national basis.

Finally, the system of proportional representation ensures election of the President by the majority of the electors. In the system of majority representation the candidates are often returned by a minority of electors—such a system has been naturally believed to be unsuitable for the election of the highly respectable office of the President of India.

4.9. Powers of the President

There is in India, like the U.S.A. a President as the head of the State. But the system of government of India, unlike the U.S.A., is a Cabinet form which resembles the basic features of the Cabinet system of the government of the U.K. The Indian President is, therefore, a constitutional head like the King or Queen of England—that is, all executive powers are constitutionally vested in him, although they are actually held by the Cabinet. Hence, powers of the President, in fact, refer to the powers of the Cabinet. We discuss these powers under the heading 'Powers of the President' because these are used in his name in pursuance of the constitutional stipulation under Article 53, which reads : "The executive powers of the Union shall be vested in the President."

The constitutional powers and functions of the President may be classified into six principal types.

A. Executive Functions

The President is at the head of the Union Executive. All executive actions, consequently, are taken in his name. As head of the executive, he appoints the governors of states, the judges of the Supreme Court and the High Courts, the Auditor General of India and many other high officials.

As head of the State, he is the Supreme Commander of armed forces, and is entitled to declare war or conclude a treaty. The real executives—the Prime Minister and the other ministers—are also appointed by the President. He appoints the Prime Minister and with his advice the other ministers. But here too, as in all cases of appointment, the President can seldom use his discretion. He is, ordinarily, rather bound to summon the leader of the party which wins majority in the Lok Sabha to become the Prime-Minister. He does have some discretionary powers in the matter only in an exceptional circumstances, when no party wins a clear majority and, in the result, ministry cannot be formed without a coalition of parties. According to the letter of the constitution, a Union ministry can remain in power so long as the President desires. But, in practice, the President has to go to find out whether the ministry enjoys support of the people or not. He can, however, dissolve the ministry in accordance with Article 75 of the constitution if he finds that the ministry does not enjoy the support of the majorities in the Lok Sabha.

B. Legislative Powers and Functions

The Union Legislature consists of the President and the two Houses of the Parliament. The President is, therefore, an integral part of it. He summons—either separately or jointly—the Houses of the Parliament. The President can prorogue the Parliament and, if necessary, can dissolve the lower chamber of the parliament.

The President can address the Parliament. In such address, at the beginning of a joint session of the Parliament, he may place the reasons for convening it. Apart from addressing the Parliament, the President may also, in case of necessities, send messages to either House, or to both Houses [Article 86 (2)]. A Presidential message gets priority on the agenda and the Parliament immediately takes it up for discussion. Normally, the President does not send such a message, unless, however, he has a serious disagreement with the Council of Ministers.

Under Article 331 of the Constitution, the President nominates a number of members of both Houses. The chief purpose of this nomination is to ensure adequate representation in the Parliament of all sections of population which may not always be achieved through election.

The President has certain functions in respect of passing an Act. A bill passed by the House of the Parliament requires his assent in order to become a law. He may give his assent to a bill or can withhold it when the bill, after passage in both the Houses, is placed before the President. But, if the Parliament, acting on President's refusal to give assent to a bill, pass it with or without amendment, for the second time and present it to the President for his approval, it becomes under Article 111 obligatory upon him to give his assent.

In certain cases, prior sanction of the President is required for initiating any legislation. A bill for formation of a new state or altering the boundaries of the existing one, for instance, is to be placed before the Parliament with prior assent of the President. Money bill is another example where such assent is required.

The power to promulgate ordinance is an important legislative power of the President. Article 113 vests him with this special power. But, he can issue such ordinance only when the Parliament does not remain in session. An ordinance thus promulgated by the President has to be placed before both Houses of the Parliament within six weeks from the date on which its session begins; it

ceases to be valid at the expiry of these six weeks if Parliament does not enact it by this time.

A bill passed by a State Assembly may also be reserved for President's assent by the Governor of the State. The Agrarian Bill passed by the Communist Government of Kerala was thus sent to the President. The President enjoys this right in relation to a bill of a State Assembly only in cases where it is referred to him by the Governor of the state. He may, however, withhold his assent to it. The President has the power to refuse his assent to it even after it is passed for the second time by the Assembly. Of course, here too, as in other cases, the President acts in accordance with the advice offered by the Union Council of ministers.

C. Financial Powers and Functions

The President causes the annual budget of the Union Government to be laid before the Houses of Parliament every year. Only the President has the power to introduce in the Parliament any proposal for spending money or raising revenues for purposes of government.

D. Emergency Powers

The constitution has given the President powers relating to three kinds of emergencies.

(a) National Emergency

Article 352 provides that if the President is satisfied that the security of the country is threatened by war or external aggression or internal disturbance, he may proclaim the state of national emergency. Such a proclamation, necessitated by internal disturbances, was made—in June, 1975. Proclamation of this emergency also occurred twice before on ground of external aggression.

A proclamation of emergency has to be placed before each House of Parliament for ratification. It ceases to operate at the expiry of two months unless approved by resolution by both Houses of the Parliament. The constitution does not say anything about the period of operation of such a proclamation.

One important effect of the proclamation of national emergency is that during its period of operation the executive power of the Union extends to the giving of direction to the States as to the manner in which their executive powers are to be exercised. For all practical purpose, the government takes on a unitary pattern temporarily. As for the second effect, when such an emergency

continues in operation the Parliament becomes empowered to legislate on any subject included in the State list. Another important effect is that, during this emergency the President may by issuing an order suspend some of the Fundamental Rights, including the right to Constitutional Remedies, for a period so long as the emergency continues.

The 44th Amendment Act provides several safeguards to Emergency provisions to ensure that hereafter the kind of emergency we witnessed during 1975-77 (Emergency declared under act 352 for internal disturbance) can never take place.

(b) Emergency for Failure of Constitutional Machinery in States.

The President is empowered to make a proclamation of emergency in a state under Article 356, when he is satisfied, either on the basis of the report of the Governor of the state or otherwise, that the government of the state cannot be carried on in accordance with the provisions of the constitution. By such proclamation the President may assume the executive functions of the state. He may also declare that the powers of the legislature of the state is to be exercised by or under the authority of Parliament. When such an emergency is in operation, the President is competent to authorize expenditure from the consolidated fund of the state pending the sanction by the Parliament. A proclamation of this emergency has ordinarily two months' duration. But this may be extended by Parliament for a period of six months at a time, upto a maximum of three years.

(c) Financial Emergency

Under Article, 360, if the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may make a declaration to that effect. An effect of this declaration is the extension of executive authority of the Union to the giving of directions to any state on financial matters. The duration of such proclamation is similar to that of national emergency—that is, ordinarily it remains in force for two months, unless approved by resolutions of both Houses of Parliament.

A number of scholars are of opinion that the makers of the constitution are quite right in vesting so much emergency powers in the President. For, as they believe, here is little possibility of these being misused as the President is likely to administer them only under advice of the Council of Ministers, which is responsible to the Parliament and, through it, ultimately to the people.

But many critics do not subscribe to this view. According to them, giving of such power to the President has always the possibility of misuse. In an emergency, even the court cannot question the legality of an act committed by the President even if that is contrary to the basic principles of the constitution. Again, the President has been given the right to suspend the fundamental rights of the citizens when a proclamation of national emergency is in force. But the important questions—how long should it be in force, and in what circumstances should it be applied—have been in the air. Indeed many experts on constitutional law have opined that this emergency should not be allowed to continue in time of peace.

Provision of emergency for failure of constitutional machinery in states too is not above criticism. Indeed, it has rightly been pointed out that if a majority party in Parliament enjoys the privilege of deciding whether the constitutional machinery in a particular state has failed or not, then, no party, other than the one ruling at the Centre, will ever be able to form and carry on a government anywhere in the country.

E. Judicial Powers

Apart from the power of appointment of the judges of the Supreme Court and the High Courts, the President has quite a few other judicial powers. Under article 72, he can grant pardons, reprieves, respites or remissions of punishment. He can suspend, remit or commute the sentence of any person convicted by Court Martial and in all cases where the sentence is one of death.

F. Powers in Relation to States

The President appoints the Governors of the states. Besides, he has certain powers in relation to legislation as well. Some bills require his prior approval before being placed at the Assembly. A bill, dealing with concurrent subjects, passed by a state Assembly requires his assent before it becomes an Act. In certain circumstances, bill even on a subject mentioned in the state list duly passed by a state Assembly becomes law after getting his assent.

4-10. Constitutional Position of the President

We have discussed the powers of the President. There is no doubt that his powers are quite extensive and enormous. But how far does he actually exert them? A true evaluation of the President's positions depends on the answer to this question.

We know that the parliamentary government of India is largely shaped on the British model. In England, legally the King or the Queen is the head of the state under whose name the executive acts are done, although, in reality, he or she is nothing but the titular head having no real power. The powers in that country—so also in India—actually exercised by the cabinet responsible to the Parliament.

The framers of the constitution had expressed in the Constituent Assembly their intention of making the office of the President that of a constitutional dignitary like the British Monarch. In the Constituent Assembly Dr. Ambedkar said "under the constitution the President occupies the same position as the King under the English Constitution." Sri Jawaharlal Nehru also held the same view: "We have not given our President any real powers, but we have made his position one of great authority and dignity".

But there has been a lot of discussion by the constitutional experts as to the position occupied by the President in our constitutional system. It may be noted here that it was Dr. Rajendra Prasad who, during the tenure of his office as President initiated the debate. In 1960 while addressing a Law Seminar he drew the attention to the necessity of evaluating the real position of the President. Curiously enough, at the Constituent Assembly Dr. Rajendra Prasad had himself spoken against giving the President any real power.¹

Article 74 (1) of the constitution has provided for a council of ministers headed by a Prime Minister. According to this article, the function of the Council of Ministers is "to aid and advice the President". But, is the President bound to act in accordance with the advice given by the council of ministers? This is a moot question on which there is considerable difference of opinion among the experts. Some of them like Prof. D. N. Banerjee expresses the view that there is nothing in the constitution which may be interpreted to mean that the President is bound to act upon the advice of the council of ministers. Now, if the President is bound to obey the advice of the ministers, he cannot be anything more than a nominal head; but if he can act on his own disregarding the advice offered by the council of ministers, he is undoubtedly a real ruler.

1. He said, "it is hoped that the convention under which in England the King always acted on the advice of his ministers, would be established in this country also and the President would become constitutional President in all matters."

Prof. Banerjee and others who hold the above opinion have considered the position of the President from a jurist's point of view. They have ignored the parliamentary set up laid down by the constitution in which the council of ministers, responsible to Parliament, really rules. In a parliamentary government the President, who is a mere constitutional head, cannot disregard the advice of the ministers, or remove them from office, so long as they hold confidence of the Legislature. The powers of the President in such a system is, therefore, nominal. To illustrate the point we may refer to our President's power of declaring war. Actually the President cannot even dream of doing this unless advised by the ministers. In the case of *Ram Jaways vs State of Punjab*, the Supreme Court of India also upheld the view that the real executive power rests with the council of ministers, not the President. The ministers carry on all executive functions in President's name.

Besides the constitutional provisions, the Conventions, grown during the 36 years of the working of the constitution, are also no less important. Indeed, in this period, we have not known a single instance where President has acted according to his own discretion, disregarding an advice of the council of ministers. The healthy convention that the President will only act upon the advice given to him by his council of ministers has grown during the tenure of office of all the six Presidents.

The 42nd Amendment Act, 1976 has amended Art, 74 (1) and declared in unequivocal terms that the President is to act according to the advice of the ministers, so as long as they command the confidence of the majority in the House of the People. Thus prior to 1976, there was no express provision in the constitution that the President was bound to act in accordance with the advice rendered by the council of ministers, though it was established that the President of India was not a real executive. The 42nd amendment act has clarified the position.

Hence, we can say that though the office of the President of India is one of dignity and honour he is a constitutional head—he reigns, but does not rule. Like the British Crown the President of India has merely “the right to be consulted, the right to encourage and the right to warn,” except that he is not a “magnificent cipher.”

4-11. Can the President of India become a Dictator ?

We have seen that although the constitution of India has equipped

the President with enormous powers, he cannot exercise them of his own accord. In the Parliamentary form of government there is no scope for the President's becoming the real ruler. It can be said of him that he, like the King or the Queen of England, reigns but does not govern.

But there are others who believe that the powers of the President are formidable. According to them it is not mandatory on the part of the President of India to act on the basis of the advice of the council of ministers. For, whereas in the constitution of Ireland it has been expressly stated that the Irish President is bound to act on the advice of the council of ministers, there is no such clear statement in the constitution of India.

Secondly, if the council of ministers disregard the provisions of the constitution the President cannot remain an onlooker and thus allow the constitution to be flouted. As the guardian of the constitution he can, if he finds it necessary, ignore the advice of the council of ministers.

Thirdly, some powers given to the President by the constitution make him look like a ruler rather than a constitutional head. According to Article 111, the President can return or dissent to a bill passed for the first time by the Parliament. This he can do without consulting the council of ministers.

Fourthly, the powers given to the President to maintain peace and security in times of emergency are enough to put an end to democracy and federal system of government.

The above arguments are very theoretical indeed. The constitution cannot and should not be interpreted and explained on the face value of words. The proper spirits of the constitution must be taken into consideration. The framers of our constitution clearly wanted to make the President a constitutional head. As Dr. B. R. Ambedkar said—"The President occupies the same position as the King under the English constitution. He is the head of the state, but not of the executive. He represents the nation, but does not rule the nation.....The President of the Indian Union will be generally bound by the advice of his ministers. He can do nothing

contrary to their advice, nor can he do anything without their advice."¹

Secondly, there are many articles in the constitution which show that the President is not the real head of the executive. The significance of the indirect election is that the President has no real power. Article 78 states that the President has the right 'to know' the decision of the council of ministers. Had he been the real ruler, there would have been no need of asserting this 'right'.

Thirdly, there is a responsible government in India. The council of ministers is responsible for all executive work to the Parliament and not the President. Thus if the President rejects the Cabinet's advice, the latter will resign. If the President cannot form an alternative Cabinet, he will have to dissolve the Parliament. And if the former Prime Minister's party wins in the next election, the President will have to resign.

Fourthly, our constitution has just been growing. There are not many well-grounded conventions as yet in our country. Conventions and usages give life to and move the constitution of a country. In our country the convention that has developed during the last 36 years, is to regard the President of India as a constitutional head.

Fifthly, in a democracy, the President cannot become a dictator by over throwing the constitution. It cannot be that the people will just look on silently while the President will go on flouting the constitution.

The 42nd Amendment Act has put an end to all debate regarding the possibility of our President's becoming a dictator. It has laid down in unequivocal terms that in discharging his constitutional functions, the President must act according to the advice of the Cabinet. Thus the President cannot become a dictator by constitutional means.

4-12. Vice-President of India

The constitution of India provides for a Vice-President, who is elected along with the President. The election of the Vice-President is also indirect—he is elected by a specially constituted electoral college consisting of the members of both the Houses of Parliament. The election takes place at a joint meeting of the members of both the Houses of the Parliament and in accordance

1. Speech in the Constituent Assembly, Nov. 4, 1948.

with the system of proportional representation by means of single transferable vote. Like the President, the Vice-President is also elected for five years. The qualifications for election as Vice-President are the same as those for election as President. The only difference is that while in order to be a President a person must be qualified for election as a member of the House of the People, in order to be a Vice-President, he must be qualified for election to the Council of States. A Vice-President may be removed from office by a resolution passed by a majority of the members of the Council of States and agreed to by the House of the People.

The Vice-President of India, like his counterpart of the U. S. A. presides over the meetings of the Council of States as ex-officio chairman. Vice-President also acts as the President in the event of a vacancy in the office of the President caused by his death, resignation or removal, or otherwise. During the Presidencies of Dr. Rajendra Prasad and Dr. Radhakrishnan, the then Vice-Presidents had to officiate as President on a number of occasions. The sudden death of President Dr. Zakir Hossain too had created a vacancy for a short period during which the then Vice-President acted as the President.

The Vice-President is one of the highest dignitaries, coming to next the President. Yet no functions—except that of presiding over the meetings of the Council of States and occasionally representing the State of India in foreign countries—have been attached to the office of the Vice-President. Indeed, our constitution makers have made this office one of dignity, but of little responsibility and function.

4-13. Union Council of Ministers

We have mentioned more than once that the system of government adopted in the constitution of India follows the British model of parliamentary government where the Council of Ministers is the real executive. We have already seen that Article 74 (1) of the constitution provides, "There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his function." Besides its power "to aid and advise the President", the Council of Ministers in fact enjoys the real power to govern. The leader of the party having a majority in the House of the People or the lower chamber is appointed as the Prime Minister. The other ministers are appointed by the President on the advice of the Prime Minister.

The Council of Ministers consists of all ministers, all of whom, however, do not belong to the same rank. Actually there are three such ranks : (a) Cabinet Ministers or the Ministers who are members of the Cabinet ; (b) The Ministers of State ; and (c) Deputy Ministers. The latter two are not Cabinet members. Generally, the

Different ranks of ministers
Cabinet Minister remain in charge of different ministries, like—Finance, Home, Foreign Affairs, Defence, etc. Occasionally one or two

ministers of state also are seen to be independently in charge of a ministry. In most of the cases, however, the minister of state and Deputy Ministers are attached to departments under some cabinet minister. The rank of minister is determined by the Prime Minister according to whose advice the President allocates business among them. A minister may be a member of either House of the Parliament. Under our constitution a person from outside, who is not a member of the Parliament may be appointed a minister ; but he cannot continue in that capacity for more than 6 months unless, in the meantime, he becomes a member of either House of Parliament. The number of ministers has not been specified in the constitution ; it depends upon the decision of the Prime Minister.

The ministers are the real executive. They determine the policy of the administration and administer them. Moreover, they prepare and introduce bills for legislation. The responsibility for implementing the decisions of the Parliament also rests on them. All these varied functions of the ministers are, however, carried out with the help of a large body of government officials.

The Council of Ministers remains collectively responsible to the Parliament. The principle of collectively responsibility has been codified in Art. 75 (3) of the constitution which reads thus : "The Council of Ministers shall be collectively responsible to the

Collective responsibility of the Council of Ministers

House of the People." This means that all important decision are to be taken by the Council of Ministers collectively and if any minister has a difference with the collective decision, he will have either to agree to abide by the decision or to resign. Sri C. D. Deshmukh, a former Finance Minister, had resigned for his difference with Cabinet's decision. Anyway, the Council of Ministers as a whole remains responsible for all decisions and acts. In addition to this joint responsibility the ministers are

also individually responsible for activities, and the success or failure, of their individual department. Indeed, all ministers are under the obligation to answer questions in the Parliament concerning their individual department. Sri Lalbahadur Sastri had once resigned the post of Minister for Railways taking upon himself the responsibility for Railway accidents. Evidently, this was a demonstration of individual responsibility.

If a Cabinet loses the confidence of the Parliament, the latter may remove it from office by passing a resolution of no-confidence.

No confidence against ministry

Owing to the rigid and strict party system this cannot, however, be easily done so long as the party in power enjoys majority in the

Parliament. When a resolution of no-confidence is passed in the Parliament, the President, may appoint another person, contending for the office, the Prime Minister on being satisfied that he has the majority support in the Parliament. Otherwise, the President will dissolve the House of the People and arrange for fresh election.

The power and influence of the cabinet has tremendously increased in the modern times in all countries where there is parlia-

Cabinet Dictatorship

mentary government. Often this phenomenon of increasing power of the cabinet is named

by the critics as *cabinet dictatorship*. Yet it can hardly be denied that, in spite of the increasing power, the cabinet can even now be largely controlled by the Parliament through various means like putting questions, initiating debates or introducing motion of no-confidence. Besides, there are certain Parliamentary committees attached to various ministries through which opposition members can exert their influence.

4-14. The Prime Minister

The Prime Minister is the central figure in the Union Cabinet. Upon his capability and leadership depend the unity, integrity and efficiency of the whole cabinet. Not only of the cabinet, the Prime

Position

Minister is largely responsible for the success or failure of the governmental machinery as a

whole. As in Britain, the Prime Minister of India is also the *keystone of the cabinet arch*.

As leader of the Party

The Prime Minister is the leader of the party which enjoys majority in the House of the People. As leader of the party he or she

has a key role in formulating and popularising the programme of the party. The Prime Minister has a special role in drawing the support of the people to the ruling party. Moreover, the unity and solidarity of the organization of the party depend largely upon him or her. His party's performance at the election battle also, to a great extent, depends on his capability as a leader, his personality and popularity. This is particularly true in a country like India, where uneducated and hero-worshipping people are influenced more by the personality of the leader than by the policy or programme of the party. Hence, the Prime Minister has got to be a national leader and leader of the people instead of being only a party leader.

As head of the Cabinet

When a party achieves majority in the House of the People (the Lok Sabha), the President invites its leader to become a Prime Minister. The new Prime Minister then having consultation with other leaders of his party, recommends the name of other Ministers to the President. It is the Prime Minister who presides over the cabinet meetings. He allocates business among the ministers, and acts as co-ordinator between them. He can transfer a minister from one department to another, and if necessary, may require any minister to resign. As the British Prime Minister, the Prime Minister of India too is often described as *primus inter pares* i.e., "first among equals". But, that fails to describe the true position of the Indian Prime Minister—he or she is more than "first among equals."

As leader of the House of the People

The President summons, prorogues or dissolves the House of the People acting on the advice of the Prime Minister. The Prime Minister is consulted regarding the preparation of agenda for and determination of time and manner of discussion in the House of the People. As leader of the House the Prime Minister takes initiative in law-making. He takes care to see that such laws are enacted as are necessary for the implementation of the programme of his party. The interpretation of government policy given by the Prime Minister is considered as the official interpretation. The Prime Minister can address any of the Houses of Parliament, that is, he can even address

1. Although in the cabinet, all its members stand on equal footing, and speak with equal voice yet head of the cabinet is the Prime Minister who occupies a position which so long as it lasts is one of exceptional and the peculiar authority.

the House of which he is not a member. Thus a Prime Minister, who is a member of the House of the People, can address the Council of the States (Rajya Sabha) as well. A member of the Council of States may, of course, become Prime Minister ; there is no bar in the constitution. As a matter of fact, Srimati Indira Gandhi became the Prime Minister of India when she was a member of the Council of States.

Relation with President

Under Article 78 of the constitution it is the duty of the Prime Minister to communicate all decisions of the Council of Ministers relating to administration and all proposal for legislation to the President. Indeed, he is the President's chief adviser. The Prime Minister communicates to the President the information called for by him, and if required by the President, submits for reconsideration of the Council any matter on which a decision has been taken. Thus Prime Minister is a link between the cabinet and the President as well as between the Parliament and the President.

Position of the Prime Minister

In reality, the Prime Minister of India has more power and responsibility than the President. The President is the constitutional ruler ; while the Prime Minister is the real one. In a Parliamentary democracy the President cannot do anything disregarding the Prime Minister's advice. The British Prime Minister cannot determine who will be the King ; the Prime Minister of India, on the other hand, has an important role as the leader of the Party in selecting the President. The Prime Minister of India, however, is more powerful in times of emergency.

The constitutional conventions grown in the last thirty six years of the parliamentary democracy in India have secured the position of the Prime Minister as the head of the executive. Undoubtedly first Prime Minister of India, Sri Jawaharlal Nehru had by his personality, popularity and efficiency greatly enhanced the dignity and power of the office of the Prime Minister. This has induced a critic to comment that had Nehru been the President instead of Prime Minister, the office of the President would have become more important. Truly, the power and position of the office of the Prime Minister depends to a large extent on the person who holds it, on his personal quality as a leader. What Asquith had said about the

British Prime Minister is also true about the Prime Minister of India—*The office of the Prime Minister is what its holder chooses to make it.*

4-15. The State Executive

As a corollary of the federal system there is a government in every state also apart from the Union government. The state executive is organized on the same pattern as that of the Union Executive. In the states also, as in the Union, responsible government has been established. The state executive consists of the Governor, the Council of Ministers and the staff of officers permanently in service. The Governor is the head of the State Executive. He is chosen by the President. The Governor does not have the prestige and honour that attends the post of the President because while that latter is elected, the former is not. The state Governor is to all intents and purposes a constitutional head. The real ruler of the state is the Council of Ministers headed by the Chief Minister. The party that has the majority in the state Assembly or a coalition of parties forming majority forms the ministry. The Chief Minister leads the state ministry as the Prime Minister leads the Union ministry. There is a huge staff of government officers under the ministry. They help in the running of the state administration. We will presently discuss the branches of the state executive separately.

4-16. Governor of State

According to the constitution of India there shall be a Governor in each state who will be the head of the state. Of course, there can be one Governor for two or more states. The Governor ordinarily is appointed for five years. He holds office during the pleasure of the President. After the expiry of his term, the Governor will continue in office until a new Governor is appointed. He can resign before his full term by submitting written resignation letter to the President. Before assuming office the Governor takes an oath conducted by the Chief Justice of the High Court.

In order to be a Governor, a person has got to be an Indian citizen and to have attained the age of 35. He cannot be the member of the Union Parliament or of any of the State assemblies. The Governor will not enjoy or accept any salaried or profitable

employment under the Government. He will get a monthly salary of Rs. 5500. He is entitled to other allowances and free residence.

His salary cannot be cut down during his terms of office. His salary is charged on the consolidated fund and there can be no voting over it in the state assembly.

We have said above that the Governor, unlike the President, is an appointed head, not elected. The post of the Governor has been made non-elective so that he cannot demand the status of the elected people's representative and so that he is not involved in party politics. If we had the Governor elected on adult franchise and did not give him any power, it might become a little anomalous. Moreover, election for Governorship will bring forth several very knotty problems. Who will be the leader of the party—the Governor or the Chief Minister? Yet, the principle of nomination has been under heavy fire in recent time. One specific criticism is that by being nominated by the President the Governor becomes a pawn in the hands of the central government and this curbs the independence of the federated states—the independence that is essential for a federal system.

Powers of the Governor

The powers and functions of the state Governor fall under four heads, namely, executive, legislative, financial and judicial. Article 154 vests all executive powers of the state in the Governor. He exercise these functions himself or through sub-ordinate officials. All executive powers of the Union are exercised in the name of the President; similarly all executive powers of the state are exercised in the name of the Governor. Like the President, the Governor also is a constitutional head of an India State. Ordinarily he acts on the advice of the Council of Ministers.¹ In certain respect he, however, can use his discretion and can act without the advice of the council of ministers. Unfortunately the constitution does not mention any specific occasions when a state Governor is required to use his discretion.

1. In 1950, in the case of Sunil Kumar Bose and others v. The first Secretary of the West Bengal Government, the Calcutta High Court gave the verdict that the Governor was bound to act on the advice of the Council of Ministers. In 1955, in the case of R. J. Kapoor v. The Punjab State, the Supreme Court reiterated that the Governor was just the nominal head of the state executive.

A. Executive Powers

The executive powers of the state extends over such subjects as are included in the state list. The Governor is the head of the state executive. He appoints the Chief Minister and on his advice the other ministers. In accordance with the Chief Minister's advice, the Governor distributes the portfolio among the ministers. The ministers hold office during the pleasure of the Governor, though in this respect the confidence of the Assembly is the real determinant. Article 167 states that it is the duty of the Chief Minister to inform the Governor of everything regarding the affairs of the state. The Governor can, moreover, ask the Cabinet to discuss a proposal raised personally by a minister. He chooses a person not below the rank of a Judge of a Court and appoints him the Advocate-General. He has no authority to appoint the Judges of the State High Court but is entitled to be consulted in this matter by the President. The Governor appoints the members of the State Public Service Commission but cannot remove them from their posts.

The measures regarding the development of the backward tribes and classes are within the Governor's functions. He sends an annual report to the union government with regard to this.

B. Legislative Powers

As the President is a part of the Union Legislature, so the Governor is an integral part of the State Legislature. He can summon, prorogue the State Legislature. He can send his message to and can address any of the two Houses of the State Legislature. Any bill in order to become a law must bear his assent. The Governor can give his assent to a bill, he can dissent to it or can send it to the President for his consideration. He can return any bill other than a Money Bill to the Legislature for its reconsideration. But if the Assembly again passes it, the Governor cannot withhold assent.

When the Assembly is not in session, the Governor can pass Ordinance. Such Ordinances must be placed before the State Legislature and they would be cancelled if they are not passed within six weeks of the beginning of the session of the Assembly.

C. Financial Powers

According to the constitution, the Governor shall lay before the Legislature the budget before the financial year sets in. No

financial bill can be introduced in the Assembly without the Governor's sanction.

D. Judicial Powers

The Governor appoints the District Judges and the other Judges. He can remit the sentences of convicted persons, he can pardon sentenced criminals.

E. Special Powers

If the Governor thinks at any time that the government of a state cannot be carried out in accordance with the provisions of the constitution and that a condition of emergency has arisen, he can then inform the President of it and the President can, under Article 356, dissolve the state government and take the administration of the state concerned in his own hands. The President makes arrangements so that in such emergencies the State Governor can perform his duties properly as the representative of the President. The governments of West Bengal and of some other States have been dissolved many a time under Article 356.

It must be remembered that the Governor is just a constitutional head. He always acts on the advice of the Council of Ministers of the state and the President sends directions and orders to the Governor on the advice of the Union Council of Ministers. The constitutional position of the Governor is evaluated below.

4-17. Constitutional Position of the Governor

The position of the Governor of a state should be discussed from two points of view. "On the one hand the Governor is the constitutional head of the state, on the other hand he is the agency of the Centre, called upon to implement its policy from a wider federal point of view."¹

As the head of the State the Governor has been given some very important powers like forming the state ministry, summoning and proroguing the sessions of the Legislature, assenting to or rejecting bills except those reserved for the President's consideration. It has been said that he will exercise those powers on the advice of the Council of Ministers. On the other hand, however, the Governor has been given, following the tradition set by the Government of India Act of 1935, certain power which he can exercise by

1. Alexandrowicz—*Constitutional Developments in India*.

himself—'to act in his discretion.' Article 163 states that in the cases of his discretionary powers, his decisions will be final and absolute. His decision cannot be questioned. For these reasons there has been a controversy regarding the actual position of the Governor in the constitution.

There are certain powers as prescribed by our constitution that show that the Governor is not merely a figurehead, that he can act independently also.

(1) He has to send an annual report direct to the President regarding the sheduled and backward tribes.
 Cases where Governor can act independently (2) The Governor of a State may be appointed an Administrator of an adjoining Union Territory by the President. The Governor in that case has been empowered to act independently of the Council of Ministers.

(3) According to Article 356 the Governor can, by sending reports, keep the President abreast of the happenings in the State. He can let the President know whether the State Government has been functioning constitutionally or not. In some cases, reports may go against the Council of Ministers. This obviously cannot be done on the advice of the Council of Ministers.

(4) In forming a new Council of Ministers after the resignation of a Council of Ministers, the Governor can use his discretionary powers. If no party has an absolute majority in the State Assembly, then the Governor does what he himself thinks proper.

(5) The Governor can withhold assent to any bill and send it to the President. The power of the Governor increases if the State and Union Cabinets are formed by different parties. The Governor then remembers that he is appointed by the President and is responsible not to the State cabinet but to the President.

(6) In emergencies, the Governor acts as the agent or representative of the President and in that case also he cannot act on the Cabinet's advice. For these reasons he is generally regarded as the watchdog of the Centre.

Some critics, on the other hand, think that the framers of the constitution intended to make the Governor a constitutional head.

He is the Constitutional head This is clear in the way by which he is appointed. In the draft constitution it was stated that the Governor would be the elected head of the State. But this was criticized. It was said that if both the

Governor and the Cabinet were elected, there would occur a conflict of power between the two. None would then feel bound to take the other's advice. So finally, the Governor became a nominated post. Secondly, the constitution has introduced a Responsible Government in both the Union and the States. The State Cabinet is responsible to the Assembly. If the Governor in some matter acts contrary to the advice of the Cabinet, how can the Cabinet bear responsibility for that action of the Governor ?

Of course, the post of the Governor has been created with three objects in view—to maintain the federal integrity, to maintain the balance and co-ordination among the different states and to implement the policies of the Union properly. He is actually the guardian of the constitution—he is to see that the government of a state is carried on in accordance with the provisions of the constitution. As a modern critic has said,—‘The old notions about the role of Governor should be buried deep. A Governor now no longer governs but he is the watchdog of the constitution. His function is to listen to everything, watch and tender advice not only to the ruling party but to all.’

4.18. Council of Ministers of a State

Under Article 163 of our constitution there shall be a Council of Ministers in every State with the Chief Minister at the head to aid and advice the Governor in the exercise of his functions. The political party that has a majority in the State Assembly will form the Council of Ministers. If any single party fails to attain absolute majority, then there may be a coalition of two or more parties and this coalition also can form a ministry. If the Governor is satisfied that a party or a coalition has the required majority, he will ask the leader of the party or of the coalition of parties to form a ministry. If the Governor has any doubts regarding the majority of the party or the coalition, he may not ask either of these to form a ministry. In fact, there are many instances of it in India. The leader of the majority party who is called upon by the Governor to form the ministry, becomes the Chief Minister. The Governor then appoints the other ministers and distributes the portfolios among them on the basis of the advice of the Chief Minister.

As in the Union Council of Ministers, there are usually three classes of ministers in the States also. Those who are members of

the Cabinet, are called the Cabinet Ministers. Besides, there are Minister of State and Deputy Ministers. Generally, the Cabinet Ministers are charged with one portfolio each and to them are attached the Ministers of State and Deputy Ministers. The ministers must be members of either House of the Legislature and if a minister is not a member of the State Legislature at the time of accepting his post, he must become one within the next six months.

The Council of Ministers is collectively responsible to the Assembly for all its actions. Moreover, the ministers are responsible individually for the actions of their respective departments to the Governor and are accountable to the Assembly.

The state Council of Ministers has to resign if a no confidence motion is passed against it in the State Assembly. The Governor, moreover, can send report to the President if he (the Governor) thinks that the State Council of Ministers is not abiding by the constitution. The President in that case, under Article 356 (as we have seen above), can proclaim that the State Government stands dissolved and introduce the President's Rule.

In the system of parliamentary democracy, the Governor rules according to the advice and suggestions of the Council of Ministers. This is the principle that is usually followed. But on certain occasions, however, the Council of Ministers seeks the Governor's advice. The Governor is the representative of the Union Government and it is, in fact, the recommendations and directions of the Union Government that work as the guide line of the State Council of Ministers in all governmental spheres.

Functions of the Council of Ministers

Except for the Governor's discretionary powers, the Council of Ministers has power to advice the Governor on all other matters and in the exercise of his powers in every other sphere. The executive, legislative, financial and judicial powers that have been vested by the constitution in the Governor are exercised under the direction of the Council of Ministers.

To discharge this function the Council of Ministers of a state has to formulate policy, work out principle and take decisions. The Council of Ministers as a whole sees to it that the accepted policies, principles and decisions are followed and implemented with sincerity and efficiency.

Secondly, the Council of Ministers has serious and important legislative functions as well. It makes the Governor summon the session of the Assembly; it introduces bills in the Assembly; it decides on the legislative procedure.

In the third place, the Council of Ministers determines the income and expenditure, prepares the budget, and imposes taxes.

Fourthly, the Council of Ministers ensures governmental efficiency and makes governmental activities speedy and smooth by bringing co-ordination among the various departments.

Fifthly, there is a large staff of permanent governmental officials under the supervision of the Council of Ministers. And it is the responsibility of the Council of Ministers to determine their service conditions and salaries. The Council controls these officials' work and conduct.

In modern times, the government activities in general have expanded considerably. Correspondingly, there has been expansion in the spheres of activity of the Councils of Ministers also. It is not merely that the functions and activities of the Council of Ministers have expanded greatly, there has been an increase in the prestige and overall influence of the Council of Ministers and the cabinet. Some critics, therefore, like to call the parliamentary system as the 'dictatorship of the Cabinet.' The efficiency and success of the state ministry, however, depend in a large measure on the individual capabilities of ministers, on the unity among them and, above all, on the leadership and personal qualities of the Chief Minister.

4-19. Chief Minister of a State

At the head of the State Council of Ministers, there is the Chief Minister. The Governor appoints as the Chief Minister the person who is the leader of the party having a majority in the State Assembly. The Governor then appoints the other ministers on Chief Minister's advice and distributes the various portfolios among them. The Chief Minister is usually a member of the Legislative Assembly, though there is no bar to his being a member of the Legislative Council.

As Chief advisor to the Governor

The Chief Minister is the leader of the state Council of Ministers, and is, therefore, the Chief advisor to the Governor. He is the link between the Governor and the Council of Ministers ; he communicates the decisions of the Council of Ministers to the Governor. If the Governor has any advice or suggestion to offer to the Council of Ministers, the Chief Minister brings that to the notice of the ministers, and takes decisions accordingly.

As the leader of the Council of Ministers

The Chief Minister, being the leader of the Council of Ministers, presides over the meetings of the Cabinet and the Council of Ministers ; he directs and controls the Council of Ministers. He brings adjustments among the different ministers and departments and maintains the unity in the ministry. The ministers take his guidance and advice whenever they feel it necessary. In case of differences of opinion between the Chief Minister and another minister, the Chief Minister's opinion dominates. The success or failure of the state ministry depends greatly on the personal qualities and popularity of the Chief Minister.

As the leader of the Legislature

The Chief Minister is also the leader of the state Legislature. As the leader of the Assembly it is his duty to make sure the smooth conduct of the proceedings of the Assembly, to get the bills introduced, to answer questions, and to maintain contact and relation with the opposition parties and to take their suggestions whenever it is felt necessary.

As the leader of the party

Besides being the leader of the Council of Ministers and the Assembly, the Chief Minister is also the leader of a political party. So he has the responsibility of maintaining the party discipline and party integrities in and outside the Assembly. Apart from this, he helps in the campaigns of the party's programmes, and in the maintenance of the popularity and strength of the party. For this purpose, the Chief Minister has to keep contact with the people at large.

The Chief Minister enjoys the same place in the state ministry, as the Prime Minister does in the Union ministry (some ascribe to them the title of being a 'Provincial Nehru'). The Chief Minister

is the pivot of the state Executive in the real sense and its chief architect, so to speak. On the one hand, he is a link between the state government and the Union government, and on the other hand, he maintains the link between the Assembly, the Ministry and the Governor. In India, the state ministries are becoming increasingly dependent on the Union government and here the increased responsibility rests on the Chief Minister's shoulders. In the Parliamentary system as it obtains in our country, the Council of Ministers (both of the States and of the Union) is gaining in power, influence and responsibility more and more. This increased power and influence of the state ministry has in fact increased the power and influence of the Chief Minister. As a matter of fact, the constitutional convention that has grown up during the last thirty five years shows that the Chief Ministers are the real ruler of Indian States. A Chief Minister having comfortable majority in the legislative Assembly occupies a very strong position indeed.

Still, it is to be borne in mind that the influence and prestige of the Chief Minister depend largely on his personal efficiency, personality, popularity, on the cooperation that he receives from his colleagues and on the confidence that he and his team can inspire in the people. In the different states the personal qualities of the state Chief Ministers vary greatly. This explains why all Chief Ministers have not attained the same prestige and respect.

4-20. The Legislature

The Legislature of a democratic country seeks to give shape to and fulfil the people's aspirations, convictions and ideals. A people's aspirations and will find expression through the Legislature. The problems which crop up everyday before the people and which stir the feelings of the different classes and parties are brought in the Legislature so that solutions may be found out.

Legislature may be unicameral or bicameral. A system in which there is only one House is called Unicameralism, while the one in which there are two Houses is known as Bicameralism. Most national Legislatures have usually two Houses—the Upper House (second chamber) and the Lower House (first chamber).

Composition of the
Parliaments

Upper House and Lower House

The Union Legislature of India is called the Parliament which has two Houses—the House of the People (Lok Sabha), and the

Council of States (Rajya Sabha)—the former being the Lower House and the latter the Upper House. There had been two Houses in the West Bengal Legislature also—the Legislative Assembly and the Legislative Council. But the Upper House of the West Bengal State Legislature, namely the Legislative Council was abolished some time ago.

Bicameralism and Unicameralism

The power of the Upper House is very much limited and circumscribed. Especially, the Upper House cannot interfere with the financial matters. The members of the Upper House may be both elected and nominated. But those of the Lower House must be elected by the people. Few members, however, are nominated by the President or the Governor. In making laws and controlling the Cabinet the influence and power of the Lower House is incomparably greater than that of the Upper House.

Functions of the Legislature

(1) One very important function of the Legislature is the making of laws with a view to establishing and maintaining law and order in the country. Those who are accustomed to the doctrine of the separation of powers, believe that the chief function of the legislative body is to enact laws. The Executive governs the state according to these laws and the Judiciary tries cases in accordance with these laws. Thus the Legislature is a principal organ of the Government. The Legislature, moreover, abolishes old and vexatious laws or amends such laws and introduces newer ones according to the needs of the day.

(2) The financial functions of the Legislature are also important. It controls the finance of the country. It discusses and determines the government's revenues and expenditures; it lays down the principles of taxation; it authorizes the imposition of taxes and the modes of raising them; it passes the budget.

(3) Thirdly, in the cabinet form of government, the Legislature controls the Council of Ministers. The ministers are responsible and accountable for their conduct and actions to the Legislature. The Legislature deliberates on and criticizes the activities of the ministers and if necessary, even can force the Cabinet to resign by passing a motion of no confidence against it.

(4) Sometimes the Legislature performs certain executive functions as well. In the U. S. A. the President can appoint highly placed

government officials like the ambassadors and Consuls. But for this he has to take the consent of the Upper House of the Congress. Thus the American Legislature has quite an important share in high public appointments which is ordinarily the executive's sphere.

(5) In some countries the President himself and the judges of the Supreme Court are appointed by the Legislature. In India, for example, the President is elected by the vote of the elected representatives of the Union Parliament and the State Legislature. The Indian Parliament even reserve the right of removing the President from office. But the judges are appointed here by the President (Executive).

(6) The Legislature performs certain judicial functions also. The settlement of conflicts with regard to elections and the impeachment of the President are among the judicial functions of the Indian Parliament. The British House of Lords is the highest court of appeal with regard to certain cases and the American Senate has the right, like that of the Indian Parliament, to impeach the highest executive, the President.

(7) Finally, the Legislature in many countries has the exclusive right of amending the constitution. The Parliament of the Indian Union can amend the Constitution of India wholly or partially. The Parliament of Switzerland is the supreme and final interpreter of the federal Constitution.

John Stuart Mill has said that it is hardly possible for every individual member of the Parliament to be abreast of every detail of the problems of the country. So it is not advisable to leave the

task of making laws into their hands. For making laws, he says, a committee of experts should be appointed and the task should be entrusted to them. The Legislature will merely lay down the guiding principles for these experts to follow. In modern times many Parliaments have adopted this principle. In many countries now-a-days committees have been formed of experienced and expert members to carry various specialized parliamentary business. Important businesses like enquiries and amendments are often performed and conducted by these Parliamentary committees.

4.21. Bicameralism

We have said above that Legislature may be unicameral, i.e.,

J.S. Mill—Parliament will frame principle of law making—it will not make laws

composed of one House and bicameral i.e., composed of two Houses. In Finland, Portugal and Czechoslovakia, for example, the Legislature has one House only. But the great majority of modern national Legislatures (British Parliament, American Congress, Soviet Russia's Supreme Soviet, Indian Parliament) are bicameral. Originally, the development of bicameral legislatures reflected the stratified social system of an earlier age. In England, for example, the nobility and higher clergy formed the House of Lords, while the lower clergy and the burgesses formed the House of Commons.

Whether there should be one Chamber or House of the Legislature or two is a very seriously debated question. We will discuss the arguments in favour of and against bicameralism.

Arguments in favour of Bicameralism

There are two sets of arguments that are usually forwarded in favour of bicameralism—the defects of unicameralism and the merits of bicameralism.

1. John Stuart Mill has elaborately discussed the defects of unicameralism. A Legislature with a single House tends to become absolutist and corrupt. A single House tends to concentrate too much power in its hands and to become, as a corollary, tyrannical. So according to Mill, “a bicameral Legislature is necessary to prevent this tyrannical and corrupting influence of undivided power.” As Bryce says, “The necessity of two chambers is based on the belief that the innate tendency of an assembly to become hateful, tyrannical and corrupt needs to be checked by the co-existence of another house of equal authorities.

2. If the Legislature is bicameral, the laws are more thoughtout and considerate. One House may pass a law hastily and the other House will then correct its shortcomings. And since a considerable period of time intervenes between the first introduction of a bill and its final passage, hardly any bill gets passed simply on the spur of the moment. In the opinion of Professor Leacock laws are passed in a unicameral Legislature in undue haste and, therefore, untidily and unsoundly. In the bicameral system there is consideration, and there is deliberation instead of emotion.

3. If there is only one House, it becomes highly difficult for it to do everything regarding law-making. A second chamber relieves the pressure on the other and shares in legislation. Thus work is

divided between the two Houses to make the business easy and smooth instead of difficult and heavy.

4. Better and more equitable representation is possible in a bicameral system. All classes and sections of the people may be represented in a second chamber. It may not be possible for a single House to accommodate all shades of people. An Upper House, usually filled in by nominated representatives may well suit people who may be very qualified and useful but who do not like to go into the troubles and hazards of election. "It affords opportunities for the representation of sectional or minority interests and of the aristocratic or intellectual element in a society."

5. In the federal form of government bicameralism is absolutely necessary. In the Upper House of a federal Legislature representatives of federated states are elected or nominated and they try to safeguard their regional liberty and interests. As professor Finer says, "Legislatures are bicameral for two broad and different reasons : as part of federalism and as the result of a desire to check the popular principle in the constitution."

Arguments against Bicameralism

There are, on the other hand, certain powerful arguments against bicameralism.

1. In the first place, it has been said that there is no need for a second chamber. It is useless. It is very much possible for the Lower House to give expression to the Popular Will if the representatives are duly elected and if the elections are broadbased and fair. And laws are passed in accordance with this Popular Will. The introduction of a second chamber will mean division, disorder and confusion. A French author has described it thus : "What is the use of the second chamber ? If it agrees with the Lower House, it is useless ; if it disagrees, it is dangerous".

2. An argument usually forwarded in favour of bicameralism is that the second chamber can resist the tyrannical or corrupt tendencies of the Lower House. This is not correct. The Lower House is composed of the elected representatives of the people. These popular representatives will not be prepared to pay any heed to the dissenting voice of the Upper House. Moreover, Professor Laski rejects the argument that by delaying the law-making process a second chamber substitutes deliberation for emotion. According to him, almost all laws are now-a-days seriously debated and discussed before they are

finally passed. In fact, many of the discussions in the Upper House are useless repetitions of those of the Lower House. So a second chamber means wastage of time and money and nothing else. The highly placed government officers prepare drafts of laws after great thought and hand them over to the ministers of the respective departments. The ministers then present them before the House which then discusses them. This is faultless process and no need for revision for a second chamber arises.

3. The second chamber is not essential for a federal system. The representatives of the federated states in the Upper House vote not in the interest of the states they represent but under party directions. Thus, they do not really serve any useful purpose.

4. The two chambers of Houses of a Legislature are often seen engaged in meaningless rivalry. Sometimes the Upper House blocks the passage of a bill or delays it for no good reason. This is like two bullocks of a cart trying to force their ways in opposite directions.

5. With all our efforts it has not yet been possible to compose an ideal Upper House in any country. An ideal Upper House will discuss and deliberate but will have no right to control; it will be a will against disorder but not stand in the way of progress; it will reflect public opinion but will not be swayed by momentary emotional outbursts. In reality, however, such an Upper House may remain unknown forever.

Conclusion

We may remember Laski's remark that a single House can meet all the needs of a modern state. Unicameral Legislature makes the composition and running of government easy and inexpensive. In some countries public opinion is now against bicameralism. The Labour Party of Britain has been trying for the abolition of the House of Lords. In countries like Greece, Bulgaria, Finland, Yugoslavia and Turkey Unicameral Legislature is already there. Yet a majority of modern states still have two-chambered Legislatures. The survival of bicameralism after the establishment of democracy is due partly to tradition and imitation and partly to other factors.

As the ideal of democracy won wider acceptance, the obviously undemocratic character of many second chambers led to demands for their reform or abolition. In England various proposals have

been advanced to reform the House of Lords by making it smaller and more broadly representative. The constitution of U. S. A. provides for direct popular election of senators to the second chamber (Senate), replacing the original method of election by State Legislatures. Hence what we find is the reformation of second chambers, and not their abolition. So most national legislatures continue to be bicameral.

4-22. Parliament of India

We have seen above that most modern Legislatures are bicameral. The Indian Parliament has two Houses. The Upper House is called the Council of States (Rajya Sabha) and the Lower House is called the House of the People (Lok Sabha). The Council of States is a permanent House and it is never dissolved or ended. The House of the People has a term of five years.

A. Council of States (Rajya Sabha)

The total number of the members of the Council of States or the Rajya Sabha will not exceed 250. Of these, not more than 238 members will be representatives of the States and the Union Territories. They will be elected indirectly. A system of proportional representation by single transferable vote has been adopted for the indirect election of members of the Upper House of the Indian Parliament. The members of the Council of States are thus indirectly elected and a few are nominated by the President — 12 members will be nominated by the President who chooses them from among persons with special knowledge and experience in different spheres. According to the federal principle the Council of States has been so composed that it may properly represent the federated states. But whether the Council has been able to perform this duty is a debatable question. We said earlier that the Council of States is a permanent body. Its members are elected for six years and one-third of its members retire every two years. The members of the Council of States can be re-elected. The Vice-President of the Union is the ex-officio Chairman of the Council's sessions. Apart from the Chairman, one Deputy Chairman is elected by the Council members to act in the absence of the Chairman. It should be noted that unlike other federations, no provision has been made for equality of representation of the States in the Rajya Sabha.

B. House of the People (Lok Sabha)

The House of the People or the Lok Sabha is the lower or first chamber (the popular chamber) of the Indian Parliament.

Composition of the House of the People

The number of members of the House of the People or the Lok Sabha, as it is called, is 545. Of these not more than 500 members are directly elected representatives of the states and not more than 25 are representatives of the Union Territories. One or two person/persons are nominated by the President to give representation to the Anglo-Indian community if he finds it not adequately represented in the House. The distribution of seats among the different states is made on the basis of the previous census.

The Lok Sabha has a term of five years. The 42nd Amendment Act extended the term of Lok Sabha from five years to six years. The 44th Amendment Act of 1978 however, restored the original position of five years. The President can dissolve it before that in an emergency; he can, again, extend its term by another year. The term of the last Lok Sabha ended in March, 1976. But the President had, in view of the national emergency, extended its term by another year. The Lok Sabha must meet twice a year. Its quorum is one-tenth of the total strength of the House.

The Lok Sabha elects a Speaker and a Deputy Speaker. The Speaker presides over the proceedings of the Lok Sabha and the Deputy Speaker presides in his absence. The post of the Speaker is a very important one. The Legislative power of the Parliament extends over the subjects included in the Union list, and in the Concurrent list. Under special circumstances the legislative power of the Parliament does extend to the State list.

Powers and Functions

The first function of the Lok Sabha, as it stands in the Parliamentary form of government, is that of providing the Council of Ministers and the Cabinet.

The principal business of Lok Sabha is to deal with matters relating to legislation. This function is performed by the Legislature equally under the Presidential and Parliamentary form of government. The volume of legislative work of Parliament is steadily rising.

The Council of Ministers is responsible to the Parliament. The rule of the Parliament in controlling the Council of Ministers is very important indeed. Putting questions to the ministers, criticizing the policies and activities of the ministers, initiating debates on different subjects, debate on the budget, adjournment motion, discussion on no-confidence motion—these are certain methods by which the Parliament exerts influence over the ministry. The Parliament can, by

3. Control over the executive passing a no-confidence motion, force a ministry to resign. But it must be remembered that all these powers are essentially theoretical. In practice, however, owing to the rigid party system and party discipline, these ways of controlling the ministers, become far less effective than they appear to be. Because debates in the Parliament may curb their popularity and may bring defeats in elections, the ministers try to be individually and collectively above criticism in the Parliament.

The financial power of the Parliament is in the main the Lok Sabha's power. The constitution has given great power in financial matters to the Lok Sabha because it is a body that represents the people. Money bills can be introduced in the House of the People only. The finance minister presents the annual budget. Then both the Houses discuss it. After the budget has been presented, financial bills are introduced in the Lok Sabha for raising money by taxation and for other purposes. The Executive cannot make any expenditure until the Lok Sabha orders it by making laws. The control of the Lok Sabha over the incomes and expenditures is really great, but the growth of the party system and sometimes, lack of time, have transferred a part of this power to the ministers.

Among the other powers of the Parliament are the power to impeach the President, the Vice-President and the judges, the power of amending the constitution, the power of discussing treaties and other international matters. The Parliament appoints several parliamentary committees in order to perform its functions efficiently and it tries to regulate the governmental activities through these committees.

Procedure of activities

Both the Houses of the Parliament must be in the session at least twice a year. There must not be a gap of more than six months

between the last meeting of session and the first of the next. The President will summon the session of a House or both the Houses at a time that will appear to him necessary and convenient. He can prorogue the Parliament and can dissolve it.

The President can address a House of the Parliament of the joint meeting of both the Houses. The President can send his message on a bill which is under the consideration of the Parliament and the House must deliberate on the message as soon as possible. At the opening of each session the President will make an inaugural speech at the joint session of both the Houses and will describe reasons for summoning the session.

The Prime Minister, the other ministers and the Attorney General can be present and make speech in the session of the House or in the joint meeting of both the Houses. The ministers can be present, moreover, in any meeting of the parliamentary committees of which they are members. But the ministers will not have the right to vote in both the Houses. The Prime Minister and the other ministers will vote only in the House of which they are members.

4.23. Relation Between the two Houses of Parliament

We have seen that the Parliament of India, has two Houses—the Lower and the Upper Houses. The Lower House is called the House of the People or the Lok Sabha and the Upper House is called the Council of States or the Rajya Sabha. Both these Houses take part in legislation and there is provision for collaboration between the two Houses. But the constitution gives an overriding importance to the House of the People or the Lower House over the Council of States.

The ministers are collectively and individually responsible to House of the People and not to the Council of States. The Upper House has no control over them. The Upper House can demand to be fully informed of every matter relating to the governmental activities in it. But it cannot pass any motion against the ministers. This principle has been adopted because the Lower House is composed of the directly elected representatives of the people. Responsible government means ministerial responsibility to the directly elected representatives of the Parliament.

The Council of States has little power with regard to Money Bills. Money Bills are introduced in the Lower House; for, all money

matters in a democracy are to be referred to the people. The people's consent is absolutely necessary in raising or imposing taxes. The Council, however, can suggest recommendations which may or may not be accepted by the Lower House. The Council should return a bill within 14 days of receipt of it. If it does not, the bill will be regarded as passed by both the Houses, even without the Council's concurrence. Thus though the Council can discuss money bills, it has no power of voting money or of withholding assent. In financial matters, therefore, the Council has a mere advisory role, while the Lower House has the supreme and final say.

In many other cases, however, the Council is as much powerful as the House of the people. It can amend or reject a Bill; ordinary Bills can be introduced either in the Council or in the Lower House. But however powerful, the Council of States in relation to House of the People stands nowhere near the American Senate which is the most powerful Second Chamber in the world. The Council of States, however, is more powerful than the Canadian Upper house. The Council, moreover, possesses certain extraordinary powers which the Lower House does not possess.

Under Article 249 the Council with a two-third majority behind it can declare that in the national interest the Parliament should legislate on a matter included by the constitution in the State List. The constitution empowers the Parliament under Article 312 to make laws regarding all India Services common to the Union and the States. The creating of such services affects the States; so the Council has given the power of deciding by a resolution backed by a two-thirds majority the question of creating of such services.

In spite of this special position of the Council in respect of the above matters and in spite of the theory of equality of the two Houses, the Council cannot, owing to the nature of its composition, attain a state of equality with the Lower House. There has been an increasing feeling that the Council does not serve any really useful purpose.

We can conclude that in the ordinary cases, both Houses of the Parliament have equal power. Ordinary bills must be passed in both the Houses. If there is conflict of opinion between the two Houses, the President will summon a joint meeting of both the Houses and there the matter will be settled by a majority vote. But in the case of Money Bills the Lok Sabha has far greater power than

the Rajya Sabha. Money Bills, after being passed in the Lok Sabha, are sent to the Rajya Sabha. The Rajya Sabha cannot reject such bills. It will send the bill back to the Lok Sabha with its recommendations. The Lok Sabha can accept or reject those recommendations.

The power of the Lok Sabha is greater with regard to controlling the Council of Ministers. The ministers are responsible to the Lok Sabha, and not to the Rajya Sabha.

4.24. The Speaker of the Lok Sabha

Following the system in the British House of Commons, in India also the responsibility of directing the proceedings of the Indian Parliament rests on the Speaker elected by the members of Lok Sabha. There is a Deputy Speaker also who will temporarily take charge in the Speaker's absence. Ordinarily the post of a Speaker falls vacant when his membership of the Parliament is cancelled, or when he willingly resigns his post, or he is removed by the members of the Lok Sabha according to Article 94 of the constitution. The Speaker ordinarily holds office during the life of the Lok Sabha.

The framers of the constitution has tried to make the office of the Speaker non-partisan. His salary is paid from the reserve fund. He presides over the meetings of the Lok Sabha, but does not usually participate in the voting. He has a casting vote which he exercises in case of a tie or equal number of votes. In England the Speaker is held in high esteem and is regarded so impartial that once a person is elected Speaker he can remain so for life. In India, the Speaker does not vote in the first instance but exercises his casting vote only in order 'to solve a deadlock.'

Under our constitution, the Speaker's conduct of the proceedings of the Lok Sabha will not be subject to the jurisdiction of any Court of law.

Functions

The functions and powers of the Speaker emanate both from the provisions of the Constitution and the Rules of Procedure of the Parliament. There are two other important functions of the Speaker. He can under Article 118 (4) preside over the joint meeting of the two Houses of the Parliament. Secondly, when a money bill is transferred from the Lok Sabha, the Lower House, to the Rajya Sabha, the Upper House the Speaker will append his approval to the bill certifying that it is a money bill. In fact, these two extra-

ordinary powers make the Speaker more powerful and dignified than the Chairman of the Council of States.

The speaker has the supreme power of maintaining order and discipline in the House. Thus powers of the Speaker include his entire authority as well as responsibility for conducting the business of the House in a orderly manner. Thus he maintains the order and decorum of the House. He adjourns meetings of the Lok Sabha and suspends it if he thinks that there has been no quorum.

The Speaker is the head of the Parliamentary Committees. He appoints the Chairmen of various Parliamentary Committees. He may ask the government to furnish the necessary information to the House or its committees. Some important Parliamentary Committees work under his chairmanship.

The speaker has some administrative power as well. He is the head of the secretariat of the Parliament. He also provides for the accommodation and other amenities of the members of the House.

There are certain constitutional provisions regarding the Speaker's powers. Apart from these there are some Rules of Procedure which give a number of other powers to the Speaker. The Speaker's decision to admit notices of motions, resolutions, bills, etc. is regarded as final. The Speaker's authority for adjudging priority or urgency to a matter is also unquestionable. He maintains the discipline of the House. The Speaker is "the guardian and custodian of the rights and privileges of the members" of the Parliament.

Position

Shri Jawaharlal Nehru observes, "The Speaker represents the dignity of the House, the freedom of the House and because the House represents the Nation, in a particular way the Speaker becomes the symbol of the Nation's freedom and liberty. Therefore it is right that that should be an honoured position, a free position, and should be occupied always by men of outstanding ability and impartiality."

In recent times, however, some doubts have occasionally been raised about the ability and impartiality of the Speaker. A motion of no confidence even was moved on 18 December 1954 against the Speaker by the opposition parties because he allegedly failed "to maintain an impartial attitude." The move was defeated but it showed more clearly the necessity for the maintenance of the dignity and of uncompromising impartiality by the Speaker in the discharge of his duties.

4.25. West Bengal Legislative Assembly

According to Article 163 of the Constitution of India, there can be one or two Chambers or Houses of every State Legislature. Until recently, there were two Houses of the West Bengal Legislature—the Legislative Assembly (Bidhan Sabha) and the Legislative Council (Bidhan Parishad). During the Government of the United Front, the Legislative Council was abolished with effect from 1st August 1969. At present there is unicameral Legislature in seven Indian States, namely,—Assam, Gujarat, Kerala, Orissa, Punjab, Rajasthan and West Bengal. Other States have two Houses each.

The members of the West Bengal Legislative Assembly are elected directly by the electors on the basis of universal adult franchise. The whole of West Bengal has been divided into 294 constituencies and each constituency sends one representative to the Assembly. The present number of elected members of the West Bengal Legislative Assembly is 294. The Governor can, however, nominate one member of the Anglo Indian community if that community is not adequately represented in the Assembly. Legislative Assembly of Tripura has a strength of 60.

The duration of the Assembly is five years. Of course, the Governor can dissolve it before its full term. But in emergencies, the Parliament can extend its term by another year by passing a special law. The term of the Assembly cannot be extended by more than six months since the termination of the Emergency.

The members of the Assembly must be Indian citizens. They must not be below 25 years of age. They must also be voter of West Bengal. They must not be engaged in any profitable work under the government. Of course, this does not apply to the ministers, though they draw their salaries from the Government fund. Any person who is a bankrupt, or who is an insane, or who has been declared unfit by any law of the Parliament, is not eligible to be a candidate for the membership of the Legislative Assembly. No person can be member of the Parliament and a State Assembly at the same time. No person can be member of more than one State Assembly at the same time. In this case, if he does not renounce one of the two posts within a stipulated period, all his posts will be

cancelled. If a member of the Assembly remains absent from its meetings for more than 60 days consecutively, his membership will be forfeited. But the implementation of this rule depends on the Assembly itself.

There must be meeting of the Assembly at least twice every year. The intervening period between the first and the second sessions must not be more than six months.

Procedure

There will be a quorum if one-tenth of the total members of the Assembly turn up and the session will then be lawful. If the members present are fewer than one-tenth of the total strength the session will be postponed. Every member of the Assembly will take an oath after they are elected. Every proposal or motion will be accepted or passed by a majority vote.

A Speaker and a Deputy Speaker will be chosen by election from among the members of the State Legislative Assembly. The responsibility of maintaining the order and discipline of the Assembly and the smooth working of it rest on the Speaker and in his absence, on the Deputy Speaker. The Speaker and Deputy Speakers of all the State Assemblies have been given such prestige and honour as the Speaker and the Deputy Speaker of the Union Parliament command. The Speaker does not ordinarily participate in voting. He has his casting vote only in case of a tie.

The Governor will determine the time and place of the session of the Legislative Assembly. He can summon the Assembly, he can prorogue or dissolve it. The Governor can make an address in the session of the Assembly. At the opening of each session, he will describe the reason of his summoning the Assembly. He can send his message to the Assembly on any bill or on any other matter. The assembly will discuss the message as soon as possible.

Powers of the State Assembly and their Limitations

The West Bengal Legislative Assembly can make laws with regard to any matter included in the State List and the Concurrent List. But the law made by the State Legislature on a matter included in the Concurrent List will be treated as cancelled if the Union law is contrary to it. In some cases, the President's sanction is necessary before the introduction of a bill in the State Legislature. Two very important examples are—bills that seek to control the intra-state or inter-state trade and any bill or motion

that might harm the prestige of the High Court. If by a two-thirds majority in the Council of States it is decided that a State should hand over to the Union Parliament a subject included in the State List, then the State Assembly will not be able to make law with regard to that subject for the stipulated period of time.

When the President thinks the government in a particular State is not possible to run constitutionally, and as a result he proclaims an emergency there under *article 356*, all powers of the Assembly of that State vests in the Parliament. The Parliament in time of emergency can make laws with regard to any subject included in the State List. The Union Parliament can further lay its hand on the State List if such legislation is deemed necessary for implementing treaty obligation or in dealing with an international affair.

The High Court of the State and the Federal Supreme Court can question the legality of laws passed by the Legislative Assembly way of dealing with cases. If these Courts think that a particular law passed by the Assembly flouts the letter of the constitution or that it outrages the spirit of it, they can declare it as illegal or unconstitutional.

It is an important function of the State Legislative Assembly to spell out the incomes and expenditures of the State. It is the function of the Assembly to sanction the annual budget. Without the sanction of the Assembly no financial outlay is possible. No demands for grants can be laid before the Assembly without the Governor's recommendation. Only the ministers can introduce proposals for taxes, grants and expenditures, and no ordinary members can.

The process of law making in a State Legislature will be discussed separately.

4.26. The Legislative Council

In some States of India there is a bicameral system. In other words, these State Legislatures consist of two chambers—Legislative Assembly or the Bidhan Sabha and the Legislative Council or the Bidhan Parishad. In some other States the Legislature is unicameral. The Legislature of West Bengal has only one House—the Legislative Assembly.

In bicameral State Legislatures the number of members of the Legislative Council shall not exceed one-third of the Legislative

Assembly. Again, it shall in no case be below 40. So long as the Parliament does not make any change in the laws, the Legislative Council of a State shall be formed thus: (1) about one-third of its members shall be elected from the municipalities, district boards and other local self governing organisation; (2) about $\frac{1}{2}$ th of its members shall be elected from among those residents of the state who have been university graduate for at least three years or who have similar qualifications; (3) about $\frac{1}{2}$ th of its members shall be elected from among those who have been teaching in secondary schools for at least three years; (4) about $\frac{1}{3}$ rd of its members shall be elected by the Assembly members, though they i.e., the Assembly members themselves shall not be elected as members of the Council; (5) the rest of the members of the Legislative Council shall be nominated by the Governor. The Governor will nominate only such persons as are experienced and have attained a high standing in literature, science, art, cooperative movement, social service, etc. The election of the first three categories of members will be made according to territorial constituency as prescribed by the Parliament.

The Legislative Council is a permanent body and is not dissolved. Every member has a term of six years and can seek re-election. Every two years one-third of its members retire. So the Council is never dissolved; it carries on as a permanent legislative organization.

The members of the Legislative Council elect a Chairman and a Deputy Chairman from among themselves. The Chairman, and in his absence, the Deputy Chairman presides over the proceedings and conducts the business of the Council.

To be a member of the Legislative Council a person must be an Indian citizen and of 30 years of age.

Justification for the Legislative Council

There has been in our country a serious debate about whether there is any point in retaining the Legislative Council as a part of the State Legislature. The Legislative Council is not elected by the people. For this obvious reason it has been given very little real power. Those who are in favour of scrapping the Council altogether say that a body that cannot obstruct the passing of a bill for more than four months, and that has no power with regard

Arguments for its
abolition

to money bills and that has little effective power besides bandying useless arguments, should better be thrown out.

Spending money on the Legislative Council is—in a poor country like ours—surely an excess. If the Legislative Assembly passes a bad bill and if public opinion is vehemently opposed to any bill passed by the Assembly, then the Governor can send the bill back to the Assembly for reconsideration. If, moreover, the Assembly makes by mistake, there are the Governor, the President, the High Court and the Supreme Court who can intervene and correct the mistake or make the necessary moderation. In the circumstances, it is difficult to see what justification there is to have a Legislative Council. According to these critics, therefore, the Council is purely redundant.

Some arguments have also been levelled against the view that the Legislative Council should be scrapped. There are many cool, sedate, experienced and wise men in the country who do not like to involve themselves in the hazards of direct election and yet, who like to help the government with their scholarship, experience and wisdom. Such people can find in the Council a proper place for themselves. They can even become members of the Council of Ministers. Secondly, the system of territorial representation may not ensure the proper representation of all classes and interests. The provision of election of Council members from different classes and groups has made for what is known as Functional Representation.

Moreover, the Legislative Council has been retained for political reasons. During the election the political parties often bank on the favours of the influential persons and classes. When one of these parties attains majority, these influential magnates hope for some gains in return and the grateful party has got to distribute honours and gains among its benefactors. It has been pointed out that a second Chamber has been retained in order that power and influence may be properly divided and distributed. This is another reason, according to some critics, why the Legislative Council has been retained in some states.

In Some states of India there has been unicameral Legislature since inception. In some other states like West Bengal the Upper House was subsequently abolished.

4.27. Process of Law Making

The Law-making process in the Union Parliament and the State Legislature is more or less the same. The responsibility that rests with the President in the Union Legislation is similar to that with the Governor in the case of State Legislation.

A. *By the Parliament*

The bills that come before the Parliament are of two kinds—Ordinary Bills and Money bills. We will deal with them separately.

1. *Ordinary Bills*

The Legislative procedure has several stages and is a matter that, obviously, takes time. The constitution prescribes certain rules with regard to this. (1) Bills other than Money Bills can be introduced in either House of the Parliament; but Money Bills can be introduced in the Lok Sabha only. (2) No bill can be regarded as accepted by the Parliament unless it has been passed by both the Houses. (3) In case of a conflict or dispute between the two Houses over a bill, it will be decided by a majority vote in the joint sitting of both the Houses. (4) Finally, every bill that has been passed by the Parliament is sent to the President for his assent. The President can either give his assent, or can withhold his assent. He can send the bill back to the Parliament for reconsideration. If the bill is again passed by both the Houses, or if his recommendations are accepted, the President must give his assent this time to the bill. A bill after receiving the President's assent becomes an Act.

Apart from these general rules, every bill has to undergo certain phases or stages. In the first place, before a bill is introduced, the House must be informed of it and the favour of its permitting the introduction must be prayed for. This permission must be obtained a month before the bill is introduced. A minister does not have to seek any permission for introducing a bill. The mover of the bill introduces it by reading the title of bill. This process is known as Introduction and First Reading. The bill is not deliberated on in any detail at this stage. Only the broad principle behind it is mentioned. The mover of the bill will say at the time of introducing it that, (a) the bill be discussed at once, or (b) that it be sent to the Committee for consideration, or (c) that it be placed in the gazette for ascertaining public opinion about it.

Stages

Introduction and first reading

If the bill is sent to the Select Committee, the bill will then be sent back to the Lok Sabha with the recommendations of the Committee. This stage is known as the Committee Stage and Second Reading committee-stage. After this the mover of the bill proposes a second reading of it. At this stage there is a detailed discussion of the bill clause by clause and it is put to vote.

If the majority vote in its favour, the mover then proposes a third reading of the bill. At this stage no other amendments or recommendations than verbal ones are accepted.

After it has been passed by the Lok Sabha, it is sent to the Rajya Sabha. The bill goes through the same states in the Rajya Sabha. The Rajya Sabha may accept and pass the bill or amend it or reject it. If the bill is passed without amendments, it will be sent to the President for his assent. On receipt of the Presidential assent the bill becomes an Act.

In case Rajya Sabha amends the bill or rejects it, the bill will be returned to the Lok Sabha where it originated. If the amendments are accepted by the Lok Sabha the bill is sent for Presidential assent. If they are not accepted the bill is sent back to Rajya Sabha with a message. In case of deadlock attempt is made to resolve the differences through the joint sitting of both the Houses.

We shall do well to remember a few facts and principles about the legislative procedure. In the first place, ordinary bills are not regarded as passed by the Parliament unless they are accepted by both the Houses with or without amendments. Secondly, no bill will be cancelled or rejected simply because the sessions of the Houses of the Parliament are propogued. But a bill which is under consideration in the Rajya Sabha will be cancelled if the Lok Sabha is dissolved (if, of course, it has not had the sanction of the Lok Sabha). Thirdly, a bill that has been under consideration of the Rajya Sabha after having been sanctioned by the Lok Sabha, will be cancelled if the Lok Sabha is at that time dissolved.

2. Money Bill

The constitution prescribes certain other rules for legislation with regard to Money Bills. Article 110 gives a broad definition

of a Money Bill. A bill is regarded as a Money Bill if it contains only provisions dealing with all or any of the following matters :

Definition of
Money Bill

(1) the imposition, abolition, remission, alteration or regulation of any tax ; (2) the regulation of the borrowing of money by the government ; (3) the custody of consolidated fund or the contingency fund of India ; (4) the appropriation of money out of these funds or/ and the declaring of any expenditure to be that charged on consolidated fund of India. The chief among the Money Bills is the budget. The Speaker's decision is final in ascertaining whether a bill is a Money Bill or not.

There are a few characteristics of the passing of the Money Bills. Only the ministers can introduce such bills. No Money Bill can be introduced without the President's sanction. Ordinary members cannot propose the imposition of taxes. They can propose to reduce expenditure but cannot propose to increase expenditure or to propose amendments to such moves.

Characteristics

The Money Bill must be introduced first in the Lok Sabha ; it cannot be raised in the Rajya Sabha. It is introduced in the way in which ordinary bills are introduced in the Lok Sabha. Immediately after its introduction, it is made open to debate and discussion. Ordinary members can give a day's notice before bringing proposals for amending the government bill. Proposals for amendments can be of three kinds : first, if a member wishes to oppose the policy and action of any government department, he can then propose at the time of the grant of expenditure of that department that only a rupee be granted to that department ; secondly, it may be proposed that the expenditure should be cut down or a specified amount be shed from the proposed total expenditure of a department ; thirdly to register public discontent and indignation against a department it may be proposed that a hundred rupees be curtailed from the proposed total expenditure of the department.

A Money Bill, after it is passed in the Lok Sabha, is sent to the Rajya Sabha for its recommendation. The Rajya Sabha is to send it back to the Lok Sabha within 14 days of the receipt of the bill together with its assent or recommendation. The Lok Sabha may accept or reject some or whole of the recommendations. Even if the Lok Sabha does not accept any of the Rajya Sabha's recom-

mendations, the bill will be regarded as passed by both the Houses in same form as it was first placed, i.e., without any change.

If a Money Bill has not returned to Lok Sabha from the Rajya Sabha within 14 days, it will be taken for granted that the Bill has been passed by the Rajya Sabha in the same form as it was passed by the Lok Sabha. The Bill is then sent to the President for his assent. The President may give his assent to it; he can withhold assent. But in practice he gives assent because he acts on the advice of the Council of Ministers.

In respect of Money Bills, the power of the Lok Sabha is far greater than that of the Rajya Sabha. But the power of the Lok Sabha is in name only. In fact, the preponderance of the Cabinet makes the role of the Lok Sabha look more apparent than real. The President's Money Bill is in reality that of the Cabinet. The Parliaments of India and Britain cannot come forward and take the initiative in money matters, as the U.S. Congress can. Not merely this. It is not possible for the Parliament to discuss every matter in complete detail. Ordinary members have neither the time nor the willingness to analyse every matter extremely thoroughly. Like the British Parliament, the Parliament of India also acts under the direction of the Cabinet.

B. By the State Legislature

This process of law-making more or less is adopted in the State Legislatures also. In the State Legislatures also the bills are similarly of two kinds—Ordinary bills and Money bills.

Ordinary bills can be introduced in either House of the State Legislature where there are two Houses of the Legislature. The bill must be passed by both the Houses. After having been passed by both the Houses (or by the Assembly where there is no Legislative Council), the bill is sent to the Governor for his assent. The bill will become a law if it gets the Governor's assent. No bill under the consideration of the State Legislature will be discarded if the Legislature is prorogued. Bill proposed in the Legislative Council but never passed in the Assembly will be rejected when the Assembly is dissolved. But a bill that has been introduced in the Assembly or has been sent to the Council after having been passed by the Assembly will be void when the Assembly is dissolved.

If an ordinary bill is passed by the Legislative Assembly and the Council (a) rejects the bill or (b) passes it with amendments that are not acceptable to the Assembly or (c) does not pass the bill within 3 months of the date of receipt, the State Legislative Assembly may again pass the bill with or without amendments and send it to the Council again.

If after the bill is sent to the Council for the second time the Council (a) rejects it again, or (b) it does not pass it within one month of the receipt of it, or (c) proposes further amendments, the bill will be regarded as passed by both the Houses and will then be presented to the Governor for his assent.

No Money bill shall be introduced in the Legislative Council. All Money bill shall have to be introduced in the Legislative Assembly. A Money bill will be transmitted to the Council after the

Assembly has passed it. The Council must send it back within 14 days with its re-

commendations. If the recommendations are accepted by the Assembly, then the bill will be deemed as passed by both the Houses with those recommendations. If however, the Assembly does not accept them, the bill be deemed as passed by both the Houses without recommendations, i.e., without any change. If again, the Council does not return the bill within 14 days, the bill shall be deemed as passed by both the Houses in the same form as it was passed by the Assembly.

Legislation by West Bengal Assembly

It is to be noted in this connection that after the abolition of the Legislative Council of West Bengal in 1969 the State Legislature here is unicameral. The single chambered legislature is called the Legislative Assembly. So, obviously, all bills, ordinary as well as money bills, shall have to be introduced and passed only in the Assembly. The bill before being passed must undergo, like any in the Union Parliament, several stages. These stages are, introduction, first reading, committee-stage, second reading, third reading and the Governor's assent. Any bill that gets the Governor's assent becomes an Act. In respect of the Money Bills it should be remembered that only ministers can introduce them and none else can.

4.28. Organization and Functions of Judiciary

In every modern state there is a Judiciary whose purpose is to maintain law and order and establish the rights of the people. As

Bryce says, *There is no better test of the excellence of a government than the efficiency of its judicial system.* Bryce has also said that a nation's rank in political civilization can be determined by the excellence of its judicial system, by the impartiality of judges in any cases between one citizen and another on the one hand and between the citizens and the government or the government servants on the other. Sidgwick has said more or less the same thing in more or less the same language. In fact, the success of democracy largely depends on the efficiency of the judiciary and the impartiality of justice. We must not forget that as Bryce says, if the lamp of justice goes out in darkness, that darkness is very great indeed.

Organization of the Judiciary

The Judiciary of all countries is not organized in the same principle and manner. That is why different kinds of Judiciary are seen in different states. In spite of these differences, the Judiciary of all states follow certain fundamental principles in its composition. Here we will confine ourselves to these common principles.

The Judiciary is in general divided into *Civil and Criminal branches*. This is the practice in most states. Cases that are related to private and individual demands and rights are called civil cases and those which deal with cases against the state and in which the states takes one of the sides are called criminal cases. The Judicial system in both criminal law and civil law proceeds from the lowest court to the highest and take a pyramidal form. Apart from the criminal and civil courts there are special courts instituted for special purposes. The military courts and tribunals are examples. The power and jurisdiction of every court are specifically determined.

The practice of dividing the courts into Courts of Original Jurisdiction and Courts of Appellate Jurisdiction is quite common in modern states. The court in which appeal is possible against a lower court judgement is known as an Appellate Court. The court in which a case is filed for the first time for judicature is known as an Original Court.

In a federal system, however, we notice two kinds of courts—one for the federated states only and the other for federal judicature. This especially obtains in the U.S.A.

Function of the Judiciary

The Judiciary does not merely adjudicate. On it rests the res-
Pol. Sc. II—10

possibility of safeguarding and interpreting the constitution. In the first place, if anybody breaks the law he is apprehended by the police and is placed before the court. Sometimes one person files a suit against another. The judge hears both sides and decides whether there has been a violation of the law, he gives his verdict accordingly.

Secondly, the judges, by way of interpreting the existing laws, create new laws. The Judiciary can follow precedents established in previous decisions, it can also overrule such precedents, and thereby, create new law.

Thirdly, in the highest federal court, namely, the Supreme Court, constitutional questions are decided. If there is any constitutional conflict or dispute between the Union and the States or among the different States, the dispute is brought to the Supreme Court. The Supreme Court after a thorough examination settles the dispute. Thus the highest federal Court is a protector and guardian of the federal constitution.

Fourthly, the judges sometimes perform certain executive functions.

Fifthly, the Supreme Court sometimes gives advices to the Executive and the Legislature on constitutional points.

4.29. Independence of the Judiciary

The success of Democracy and the efficiency of the Judiciary depend in a large measure on the independence of the Judiciary. For, if the Judges cannot rise above the influence of the Executive and the Legislature it is not possible for them to perform their functions dispassionately and in a non-partisan way. In the past kings of some countries (the Stuarts of England, for example) influenced the Judiciary and had their political rivals and enemies punished by the judges.

In such case the Judiciary loses its independence and justice loses its sanctity and meaning. Even today kings and heads of states in many countries can appoint and remove judges. In these cases the Executive has the enormous scope of influencing the Judiciary. So for ensuring justice and equity the Judiciary needs to be independent. Unless there is complete Judicial independence, no real justice can be expected, however good the laws may be and however efficient the judges may personally be. The independence of the Judiciary depends on the following elements :

1. *Keeping the Judiciary free from influence*

It is necessary to keep the Judiciary independent of the Executive and Legislature. If the ruler controls the Judiciary or if he assumes the double role of the ruler and the adjudicator, the independence of the Judiciary is then bound to be destroyed.

2. *Mode of appointment of Judges*

The independence of the Judiciary depends largely on the way in which judges are appointed. The judges are appointed in three different ways : (a) by the people, (b) by the Legislature and (c) by the Executive.

a. In some states judges are appointed by the people. Judges appointed by the people are surely representatives of the people but such persons may not necessarily be the most expert and efficient judges. In other words, it may not be that the elected candidates have the requisite qualities of good judges. Laski has criticized this mode of appointing judges as the worst of all.

b. In the Soviet Union the Legislature appoints the judges of the higher courts. But in such appointments also, party interest and regional interest often get the better of efficiency and talents of the candidates. Even then some critics consider this mode of electing judges a better one than their election by the people.

c. In some states judges are elected by the Executive from among the legal experts and legal practitioners. Though not beyond criticism or free from defects, this system is more acceptable than the others. Laski has recommended this system with of course, a certain care.

3. *Term of office and security of service*

In some States judges are appointed for a definite period of time. There is a possibility of the loss of independence of the Judiciary in such cases. Judges should be appointed permanently. And if it is decided that they will not be removed from office except on grounds of the disability and offence, the security of the service of the judges can be ensured and this in its turn will make sure the independence of the Judiciary.

4. *Removal*

If the judges are not honest, dispassionate and efficient, they must be removed. But if it is possible to misuse the power of

removing the judges and thus to influence them, there will remain nothing of the independence of the judicial department. So before removing a judge there must be a clear probe into the allegations against him and there must be a proper impeachment by the competent authorities.

5. *Salary*

The salary of the judges should be adequate to attract highly efficient and qualified persons to the posts and to enable them to rise above all corruption and pettiness. Otherwise, they may easily fall a prey to various influences. Thus a good salary is also important for the independence of the Judiciary.

The above measures may make for the independence of the Judiciary. According to Laski, however, the judges usually come from such a class of society as makes it impossible for them to always rise above all corruption or partisanship. It is moreover, difficult for them to rise above class interests. But we cannot always completely agree with this statement of Laski. There have always been judges with unquestionable integrity and neutrality.

4.30. Indian Judiciary and its Organization

In India there is an integrated or unified judiciary for the whole country. In the U.S.A. there are separate judicial system for the States and the Union. But in India the whole country has only one system. The Indian judiciary is organized pyramidally.

At the bottom there are numerous Nyaya Panchayat and at the apex there is the Supreme Court. In between these there are various other courts—Munsif's Courts, District Courts and High Courts.

The Indian Courts of adjudication are divided into two groups—Civil and Criminal Courts. Courts that deal in general with disputes regarding land, property and other such things are called *Civil Courts* and those that deal with murder, arson, riot, looting, etc., are *Criminal Courts*.

To give a clear idea of the Indian judicial system we describe it under three heads :—Subordinate Courts, High Courts and the Supreme Court.

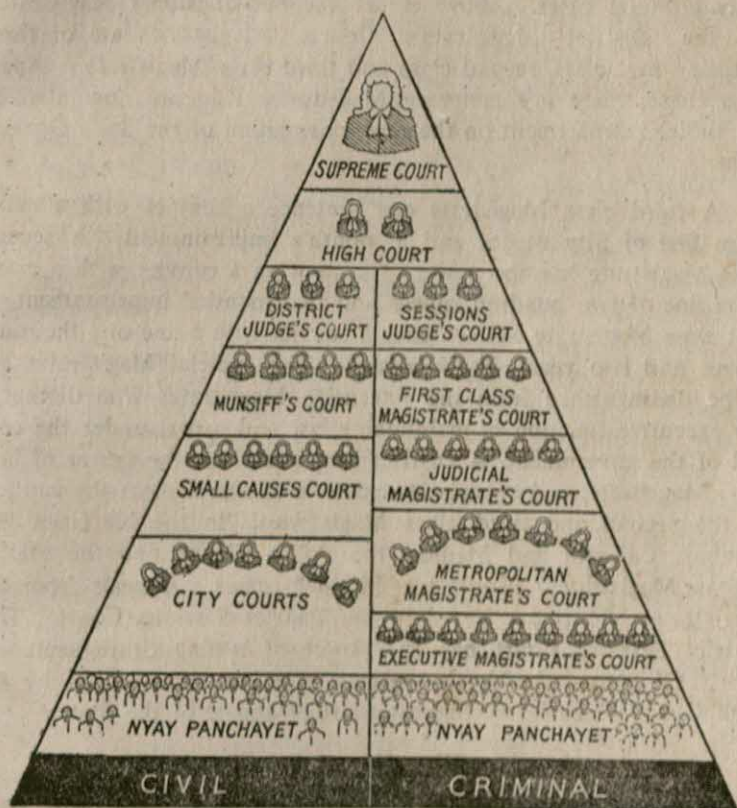
4.31. Subordinate Courts

1. *Civil Courts*

Until some time ago Union Courts under the Union Board were

the lowest courts in the villages. But now the panchayat system is introduced and Nyaya Panchayats are the lowest courts. These have jurisdiction over villages and try petty civil and criminal case.

In big towns and cities there are Small Causes Courts. In cities like Calcutta, Madras and Bombay there are City Courts. In the



Organization of Indian Judiciary

sub-division towns there are Munsif's Courts for trying civil cases. Above these there are District Courts. The district judge is the head of the district judiciary. Appeal is possible in the district courts against verdicts of the Munsif's Courts and sub-judges' courts. High Court is the supreme criminal judicial court of the

state. Supreme Court is highest court of appeal. It hears appeal from High Courts.

Criminal Courts

The lowest criminal courts is Nyaya Panchayat. After the establishment of the Panchayat, the Nyaya Panchayat has been trying petty criminal cases. Above it are the Sub-divisional Magistrate's and the District Magistrate's Courts. Magistrates are of three classes—first class, second class and third class Magistrate. Apart from these, there are honorary Magistrates who are appointed by the Judicial department on the recommendation of the State Government.

A third class Magistrate can sentence a convict with a maximum fine of fifty rupees and a month's imprisonment. A second class Magistrate has the power of sentencing a convict with a maximum fine of two hundred rupees and two months' imprisonment. A first class Magistrate can sentence a convict with a fine of a thousand rupees and two years' imprisonment. The Judicial Magistrates are to be distinguished from the Executive Magistrates who discharge the executive function of maintaining law and order, under the control of the government. A District Magistrate has the power of first class Magistrate, and appeals are possible to him against the verdicts of the second and third class Magistrates. In the big cities like Bombay, Calcutta and Madras, the Police Courts and the Metropolitan Magistrates' Court try criminal cases. Appeals from the Magistrate's Court are heard in the District Sessions Court. This District Sessions Court has the power of issuing death sentences even. Of course the death sentence must be approved of by the High Court which is the highest court of appeal of the State.

4.32. High Court of a State

According to Article 214 of the constitution there shall be a High Court for each of the States. This Court shall be the highest in the State. Of course, Article 231 of the constitution empowers the Parliament to set up one High Court for two or more States.¹

1. In 1972 by the State Recognition Act, the Parliament decided that there shall be one Governor and one High Court of Meghalaya, Manipur, Tripura, Nagaland and Assam, (to be situated at Gauhati) as their common High Court.

A High Court is composed of a Chief Justice and as many other judges as the President of India may consider proper. The President can appoint additional judges also for a maximum period of two years. Ordinarily the judges remain in office till the age of sixty. Composition of the High Court

In appointing the Chief Justice of a High Court, the President consults the Governor and the Chief Justice of the Supreme Court. In appointing the other judges the President consults the Chief Justice of the Supreme Court and the Chief Judge of the High Court concerned.

Though the judges can remain in office till sixty, the judges may resign their posts prematurely by applying in writing to the President. Besides, the judges of a High Court can be removed from office on various grounds like misdemeanour and corruption. The judge of a High Court may be promoted by the President to the higher mark of judgeship of the High Court of another state or Supreme court. Appointment qualification

The judges of the High Court must be Indian citizens and must have behind them ten years experience in adjudication or in legal practice in one or more High Courts.

To ensure the independence of the Judiciary, a special mode of removal of the judge has been prescribed in the constitution. The proposal of removal must be passed by a two-thirds majority of the members present in the Legislature. Removal of judge

The proposal then shall have to be sent to the President for his assent. The President will then ask the judge to resign. But this is very difficult in practice. Thus there is very little uncertainty about the service of the High Court judges.

Their salary cannot be put to vote in the Legislature. The State Legislature cannot make any change in the constitution and organization of the High Court. The salary of the High Court Judges is fixed by the constitution. The Chief Judge gets a salary of Rs. 4,000 a month and the other judges get Rs. 3,500 a month. According to the constitution and the parliamentary decision, their allowances, leaves and other privileges also are fixed so that they cannot be changed by the State Legislature. Salary

Functions

The High Court of every State is the highest court of appeal

in respect of all criminal and civil cases of the State. The High Courts act as the Court of Original Jurisdiction and the Court of Appellate Jurisdiction at the same time. As a Court of original jurisdiction the High Court can try original cases. The constitution has vested the High Court with power of trying revenue cases also. This had been until a few years ago beyond the High Court's jurisdiction.

The High Courts hears appeals in respect of any criminal or civil case decided by the lower court of the state. If the High Court thinks that some very important constitutional or legal questions are connected with a case which a lower court is trying, it (the High Court) may come forward of its own and take up the case. Such a case is transferred to the High Court. The High Court may either give its verdict on the constitutional point only and leave it to the lower court concerned to pass verdict on the other issues or try the case as a whole.

The Union Parliament has been empowered to either enlarge or restrict the jurisdiction of the High Court. Apart from the aforesaid powers, the High Court has (according to *Article 227* of the constitution) the unquestionable power of controlling all the lower courts of a state except the Military Tribunals. Particularly, to safeguard the fundamental rights of the citizens, the High Court can issue various orders like the Writs of Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari. Besides, the High Court has the authority of making laws regarding the appointment of its own officials and other internal affairs.

As the head of the judiciary in the State, the High Court has got administrative control over the subordinate judiciary in the state.

The High Court is a Court of Record. This means that all records regarding all cases that come to the High Court for decision are kept here with the extreme care possible and these records are later referred to and taken help of in dealing with other cases. If a person makes any statement about the court contemptuously, the High Court as a Court of Record will punish him.

The *42nd Amendment Act* of 1976 curtailed jurisdiction of the High Courts in various spheres. The *44th Amendment Act* of 1979, however, restores the jurisdiction of the High Courts.

4.33. The Supreme Court of India

In a federal system of government the political power is divided between the Centre or the Union and the States. The federal structure is a mixed structure, by and large. So there may well be disputes between the Union and the States with regard to the division and exercise of powers. In a federal system both the Union and the States derive power from the constitution but disputes are still very likely (and in fact they sometimes do occur) between the Union and the States or between one State and another. Some kind of an Institution must be there that will settle the dispute by interpreting the constitution. The authority of this Institution must not be disputed. This implies that the disputants must accept the interpretation given by this Institution. The Supreme Court of India is such an Institution. It has great authority—so great in fact, that it is said to be the ultimate guardian of the constitution of India. And it is one of the important features of our constitution that it endeavours to ensure the independence of the Federal Court.

Composition of the Supreme Court

According to the provision of the constitution the Supreme Court was to have a Chief Justice and not more than 7 other judges. The constitution provides that this number can be increased by the Parliament. *Appointments* The Parliament by a special Act in 1956 increased the number to 10 and by another in 1960 to 13. The Act of 1976 increased the number to 17. So now the Supreme Court consists of the Chief Justice of India and not more than seventeen other judges.

Every judge of the Supreme Court is appointed by the President of India. The President may, in this matter, consult other persons besides taking advice of the Council of Ministers.

The Chief Justice of the Supreme Court is appointed by the President in consultation with the Union Council of Ministers. In appointing the other judges the President relies on the advice of the Chief Justice of the Supreme Court. The President shall also consult such other judges of the Supreme Court and High Courts as he deems necessary. The Chief Justice of the Supreme Court can, with the President's permission, appoint judges temporarily.

The judges of the Supreme Court need to have several quali-

fications. They must be citizens of India. They must also be legal experts of high standing. They must have had five years' experience as judges of High Courts. They must have, alternatively, experience as lawyers in a High Court or in more than one High Court for ten consecutive years.

In our country, some means have been devised to ensure the independence of the Judiciary. No minimum age limit has been fixed for the judges of the Supreme Court in our constitution, but once appointed the judges continue in office till sixty-five.

In no way can they be removed before they have attained that age. Only if the judge himself submits his letter of resignation, or, if a proposal for removal on ground of misdemeanour is passed by a special majority in both the Houses of the Parliament, then the President can issue orders of his removal.

The salary of the judges is determined by the constitution. The Chief Justice will get a monthly salary of Rs. 5000 and the other judges Rs. 4000 each. This salary is charged on the consolidated fund of India, and so it does not depend on the voting of the Parliament. *Article 125* of the constitution says that there can be no change in the service condition of the judges, their rights, powers, privileges, etc. after they are appointed. Only in times of financial emergency the President can cut down the salary of the judges. The framers of our constitution tried in this way to secure the independence of the Judiciary.

Functions and Powers of the Supreme Court

In most federal states, the federal courts and the courts of the federated states are more or less independent. In the United States, for example, the Judicial system has two clear-cut divisions—the Federal Judiciary and the Judiciary of the States. But in India the Judiciary has a united pattern; its structure is pyramidal. The Supreme Court is at the apex of this pyramid. So, naturally, its powers are quite enormous. The constitution refers to three kinds of jurisdiction of the Supreme Court, namely, Original, Appellate and Advisory.

A. As a Court of Original Jurisdiction

Article 131 of the constitution enumerates the original jurisdiction of the Supreme Court. If there is any dispute between the Union and one or more States, or between two or more States, with regard to restriction or enlargement of powers, or any constitutional question, the matter falls within the original jurisdiction of the Supreme Court. Such disputes cannot be taken to any other court of law in India. Secondly, the Supreme Court is the guardian of the fundamental rights of the citizens. Any dispute regarding these rights comes within the original jurisdiction of the Supreme Court; of course, the State High Courts, too, have been given some powers in this respect.

There are certain limitations to the Supreme Courts original jurisdiction. (a) Terms of treaties or charters in which a federated State is involved, inter-state water dispute, and the financial matters sent to Finance Commission for settlement are beyond the original jurisdiction of the Supreme Court. (b) Even in respect of the fundamental rights only the legal aspects are within the Supreme Court's jurisdiction. It has nothing to say about the administrative or political disputes.

B. As a Court of Appellate Jurisdiction

The appellate jurisdiction of the Supreme Court is of three kinds : (a) constitutional appeals, (b) appeals regarding civil cases ; (c) appeals regarding criminal cases.

(a) Constitutional appeals : Any appeal against the judgment of the High Court is possible in the Supreme Court if the High Court issues a certificate to the effect that in this case some important constitutional questions are involved. Of course, the Supreme Court may grant special leave of appeal even if the High Court refuses to issue such a certificate.

(b) Civil appeals : If the High Courts certifies that in a case a minimum amount of Rs. 20,000 is involved or that the case is important for some other reason, then appeals are possible to the Supreme Court. If, however, the High Court keeps the judgment of the lower court, then before sending the appeal to the Supreme Court, the High Court must also certify that some important constitutional questions are involved in the case.

(c) Criminal appeal : In criminal cases appeals from the High

Court are possible to the Supreme Court if the High Court after retrial lifts the death sentence in a particular case, or takes up a case in the midst of its trial in a lower court and sentences the accused with death or certifies that the case is so important that the Supreme Court should reconsider it.

According to the constitution (*Article 136*), the Supreme Court can enlarge its appellate jurisdiction. The Supreme Court can grant special leave of appeal from any other Court than the Tribunals specially set up for the Defence Army. Again, under *Article 138* the Parliament can enlarge the jurisdiction of the Supreme Court in respect of any subject included in the Union List and in respect of any other subject with the consent of the States.

C. Advisory Jurisdiction

The Supreme Court's Advisory jurisdiction has been discussed in *Article 134* of the constitution. In any matter of constitutional law and in other questions of law and fact, the President may seek the advice of the Supreme Court. The Supreme Court is not bound to give advice. Again, there is no clear indication in the constitution whether the President is bound to accept the advice of the Supreme Court.

Finally, some other powers of Supreme Court may be mentioned. The decisions of the Supreme Court must be accepted by all other Courts in India. The verdicts of the Supreme Court will be upheld and accepted by all High Courts and lower courts as precedents. The decision of the Supreme Court is regarded as law. Of course, the Supreme Court can, if it thinks it necessary, alter its earlier decision. Supreme Court is the interpreter of the constitution. The interpretation of the constitution which the Supreme Court will give must be accepted by all. The constitution declares that all civil and judicial authorities are bound to assist in the work of the Supreme Court. Thus it appears that the Supreme Court has the authority to control the Executive and the Legislature in some respects.

The Role and Place of the Supreme Court

The Supreme Court was shorn of some of its important powers by the 42nd Amendment to the Constitution. They however were restored again by the 43rd and 44th Amendment Acts.

The position of the Supreme Court is vital in the constitution. The primary duty of the Supreme Court is to ascertain whether the laws are executed and obeyed properly and to see whether any person is deprived of justice in any court of law. With this purpose in view, the Supreme Court has been given the highest place in our unitary judicial system. Attempt has been made as far as possible to ensure its independence and for the achievement of its goals, it has been equipped with enormous powers. By virtue of its place at the apex of the judicial pyramid, the Supreme Court acts as a great unifying force. We have seen above that its decisions and verdicts are binding on any Court in India. As a result, there is a good possibility of integration, consistency and cohesion in the entire judicial system of the country.

On the Supreme Court, moreover, the great responsibility of interpreting the constitution rests. It interprets the constitution, it preserves it; it is, in fact, the guardian of the constitution. There are two points of significance of the Supreme Court's rule as the protector and guardian of the constitution. (1) As the highest Federal Court, it is in the power and authority of the Supreme Court

Interpreter and guardian
of the constitution

to settle any dispute regarding division of
powers between the Union and the States;

(2) secondly, it is in the Supreme Court's authority to safeguard the fundamental rights of the citizens. In order to discharge these two functions it is sometimes necessary for the Supreme Court to examine or review the legality of the laws enacted by both Union and State Governments. This is known as the Judicial Review.

It will now be worthwhile to tell a few words about what the Judicial Review really means. In France, the Soviet Union, Great Britain and Switzerland, for example, the constitution expressly states that the Judiciary (in those countries)

Judicial Review

cannot interpret the constitution. The leg-

ality of the laws which the Legislature introduces in these countries cannot be disputed or challenged. But the Supreme Court of the U.S.A. has been given the supreme authority of interpreting the constitution of the country. There *the Constitution comes to mean what the Court says it means*. Chief Justice Marshall of the U. S. A. once said in this connection : *We are under a constitution, but the constitution is what the judges say it is.*

Almost similar powers has been given to Supreme Court of

India. If it occurs to the Supreme Court that any law introduced by the Union Government or by a State Government curbs or threatens to curb the citizen's fundamental rights, the Supreme Court may declare that law as unlawful or unconstitutional. Any law that is inconsistent with the spirit or letter of the constitution cannot be lawful and whether the government oversteps the legal bounds is for Supreme Court to see. The power of the Judiciary to examine the validity of a law is called Judicial Review.¹

In the U. S. A. the power of judicial review is very great indeed, so much so that many of the progressive laws passed by the U.S. Congress have been invalidated by the U.S. Federal Court.

The conservatism of the Judges and their political prejudices are quite often seen to stand in the way of new and progressive legislation.

The Supreme Court of India, too, declared the abolition of the Zamindari system as unconstitutional. Judicial review tends to restrict the authority of the Legislature. In view of this in our country certain safeguards are provided for by the constitution.

The Supreme Court of India is the guardian and interpreter of the constitution. It watches whether the Union and the units in the federal system work properly in their respective areas. Any unconstitutional measure may interfere with the rights of the citizens. So the Supreme Court guards against such an eventuality. Thus the Supreme Court acts as the guardian of the federal constitution. Its interpretation of the constitution is final.

According to many jurists the Supreme Court of India is the strongest federal Court. Shri Durgadas Basu has commented that "the jurisdiction and powers of our Supreme Court are in their nature and extent wider than those exercised by the highest court of any other country".

We can, however, conclude that the Supreme Court occupies an important position in our constitutional system. It holds Legislature in check, prevents the Union and State Governments from encroaching into one another's spheres, safeguards the fundamental

1. Justice Bijan Kumar Mukherjee said by way of passing a verdict in 1950 that—"A statute or law to be valid must in all cases be in conformity with the constitutional requirements and it is for the judiciary to decide whether an enactment is constitutional or not."

rights of the citizens. In other words, the Supreme Court of India acts as the guardian of the constitution.

4.34. Bureaucracy

For running the administration on the basis of the principles laid down by the Legislature and the Executive, the government relies greatly on a huge army of officials, high and low. These officials form the bureaucracy. In modern times, owing to the necessity of making the democratic programmes successful and owing to the welfare state system, the functions of the modern government have greatly increased. Correspondingly, also, the number, importance and responsibilities of the bureaucrats have increased enormously.

Etymologically, bureaucracy means government by bureau or "desk government." Bureaucracy, in fact, signifies the concentration of administrative power in bureaus or departments and the undue interference by officials. Though ordinarily bureaucrats mean government officials, there is about the term a sense of arbitrariness and procrastination. F. M. Marx says that through distortion and caricature the term 'bureaucracy' has come to imply bungling, arbitrariness, wastefulness, officiousness and regimentation. Sometimes, again the term 'bureaucracy' is taken to mean the efficiency, neutrality and experience of the regular government officers.

F. M. Marx has given four different meanings of bureaucracy. In the first place, bureaucracy is a particular form of organization for the running of administration. In the words of E. N. Gladden, it is a "regulated administrative system organised as a series of inter-related offices."

Secondly, some critics denounce bureaucracy downright as a diseased and harmful form of organization that makes good administration impossible. Laski says in support of his view that the chief features of bureaucracy are excessive emphasis on administrative routine, aversion to experiments, undue delay and unreasonable rigidity.

Thirdly, the modern age in an age of what is known as the 'Big Government'. Big government indicates the widening of government functions and responsibilities of the modern state. Big government can hardly go without the help and service of the bureaucracy. In view of the great importance of the bureaucrats in modern times, the modern states are often called the 'Administrative States'.

Fourthly, some critics view bureaucracy as a government by the civil service for its own aggrandisement. These critics hold the bureaucrats responsible for the loss of the citizens' liberties.

Max Weber, the noted German sociologist, has analysed several characteristics of bureaucracy. These are as follows : (1) discharging duties assigned to every member of the organization ; (2) division of powers and responsibilities in a manner that makes for efficiency and smooth work ; (3) following a definite method of work ; (4) formation of an organization in a hierarchical principle ; (5) laying too much emphasis on written documents ; (6) following a code of hard rules unwaveringly.

Laski says that the greatest danger for civil service is the bureaucracy.¹ He thinks that there may be two reasons for the growth of bureaucracy. First, bureaucracy springs from the attitude of undue rigidity at every step. Secondly, bureaucracy grows up as a results of giving priority to seniority instead of efficiency and other qualities.

Charges are levelled against bureaucracy not by scholars alone, but by the common people as well. Bureaucracy in their experience is nothing other than mechanism, red-tapism and cold, heartless administration. In recent times, there has been a tendency, owing to the stiffness, undue delay, heartlessness and officiousness of a section of the civil servant, to dub them as bureaucrats. All these charges are not phoney ; some are quite true indeed. But the role of the bureaucracy in the day-to-day administration and in the stupendous governmental establishment is very important. Herbert Morrison even goes so far as to say that "Bureaucracy is the price of Parliamentary Democracy."

It is not to be denied that bureaucracy has its limitations. On the other hand, it cannot be denied too that to carry out the functions of the government and to run the administration thousands of experienced, efficient and neutral officials are needed. These two extreme propositions are equally true. The aim of administration is the welfare of the people. Administration simply for its own sake has no meaning. Bureaucracy will be there ; it cannot be avoided.

1. 'The danger of any civil service is bureaucracy and the high road thereto is through rigidity of routine and promotion by seniority.'—Laski

But attempt should be made to strip off some of its vices. If, on the whole, bureaucracy can be made a little flexible instead of rigid, human instead of unduly mechanical and sympathetic instead of heartless, many of the charges now made against it will no longer be there.

4.35. The Civil Service

It has been said above that the government officials have a really important role to play in the administrative system of modern governments. It is hardly possible for a handful of ministers and a few departmental chiefs to manage all the affairs of the government. Raising taxes, doing the accounts, auditing, managing the government undertakings, preparing the census, controlling the post and telegraph department, keeping the trains on the move—these are only a few of the thousands of government activities and each of these need many more thousands of government officials. These government officers formulate the government's administrative policies, carry on the government's daily work and maintain law and order everywhere in the country. In fact, government without its regular band of civil servants is well nigh unimaginable.

In a word, the entire organization which directs and carries on the government's civil administration is known as the Civil Service. In defining the British Civil Service a scholar refers to "those servants of the Crown other than holders of political or judicial office who are employed in a civil capacity and whose remuneration is paid wholly out of monies voted by Parliament." Following Finer, we may say that civil servants are a 'professional body of officials permanent, paid and skilled.' Gettell observes that, "In its broadest sense the executive department includes the general body of officials serving under the heads of the various administrative departments and known as Civil Service. These are distinguished on the one hand from legislative and judicial offices, and on the other, from members of army, air force and navy, who are under special military and naval organization and rule." Non-partisanship and strict neutrality are the chief features of the Civil Service. They are accountable to the people because they are instituted for serving the people.

Functions of the Civil Service

The Civil Service has two parts—highly placed officer and clerks. Among the higher officers there are generalists and specialists like

physicians, engineers, economists and statisticians, etc. Thus there are different kinds and different grades of officers. Obviously, their work and responsibility are not of the same kind. On the other hand, the government has an enormous variety of activities. The Civil Service performs everything from advising the minister down to selling postal stamps. The functions of the Civil Service are enumerated below :

1. Execution of Policy

Policy formulation and policy execution are two separate functions. Policy formulation is done chiefly by the Legislature and the Cabinet. The policy is executed by the civil servants. As Ogg says, 'they (the civil servants) translate law into action from one end of the country to the other end.'

2. Advisory Functions

The Civil Service has certain advisory functions too. The highly placed officers sometimes play an important part in the formulation of policy also. Ordinarily, the ministers take the advice of the highest civil servants before formulating policies. This is so because, firstly, the members of the Legislature or the Council of Ministers may not have the required specialized knowledge, and secondly, it is not always possible to ignore the experience and efficiency of the civil servants. Thus the Civil Service advises the minister on all important matters.

3. Formulation of Administrative Policy

The formulation of the administrative policy is done by the highly placed civil servants. The policy is the basis of the day-to-day administration. In the formulation of the fundamental government policy the role of the civil servants is rather indirect, but their role in formulating the administrative policy is quite direct and decisive.

4. Application of Delegated Legislation

In modern times the Legislature is saddled with great responsibilities. And it is not possible for it to do everything without delay. It, therefore, delegates part of its work to the Civil Service. This is known as the delegated legislation. By virtue of this power the civil servants, in conformity with the will and policy of the Legislature, carries out the responsibility of discharging certain legislative duties.

5. *Public Service*

Public service is a chief function of the Civil Service. The aim of any government activity is public service and public welfare. Whether in Education or in Food Supplies or in the Municipal department, the chief aim of the civil servants' work is public service and welfare. In a democratic and welfare state, government activities must be directed with public welfare in view. The Civil Service serves the public in various ways.

6. *Day-to-day work*

To keep the machinery of the government going the Civil Service has to perform a wide variety of activities according to certain strict, hard and fast regulations. Everything from very important things down to very insignificant details of governmental activities are within the range of the Civil Service.

7. *Public Relations*

Public relations are another very important duty of the Civil Service. In modern times public relations have been becoming a very serious and heavy responsibility. Public relations include communicating to the people the government's efforts and programmes and informing the government of what the people want and say. Democracy is government for the welfare of the people. So the government must know what the people really want and how they react to the government's programmes and policies. Thus public relations is so important a responsibility that a separate public relations department has been organized in different states.

8. *Supervision*

Supervision is another function of the Civil Service. It supervises the work of the subordinate government staff and makes sure that the governmental policies are followed.

Harvey and Bether have described four kinds of functions of the higher order of Civil Service. In the first place, they assist in the formulation of policy. Secondly, they prepare the answer of parliamentary questions and anticipating supplementaries briefing the ministers accordingly. Thirdly, they are responsible for preparing and watching over bills during their passage through Parliament. Fourthly, they are in charge of the administrative machine, giving the necessary direction which put government's decision.

These functions are generally discharged by the Civil Service in parliamentary democracies. In countries with other forms of government certain variations in the functions of the Civil Service are noticed.

Importance of the Civil Service

India is governed in the name of the President, Great Britain in the name of its Queen, and the U. S. A. in that of its President. But these chief executives have very little connection with day-to-day administration and day-to-day execution of governmental policies. Who then does it all? Do the ministers, then, perform this vast work? The ministers are described as the political executive or the amateur administrators. Some members of the Legislature become ministers. But they are ministers for some years only. There is no permanence about their job. Some ministers are possessed of capabilities, but very few of them have administrative experience. Even if a minister has some experience, he usually is half-sunk in the political whirlpool. He has hardly the time or the intention of laying his hands on daily administration. Now the question is: by whom is this huge business managed?

In every country this business is managed by the Civil Service. The civil servants are not temporary or amateurish administrator as the ministers are. "The minister", as Finer says, "must of necessity be a paramount amateur, and the civil servant a permanent expert." The civil service has an important and substantial role in the formation of policies, in the running of the administration. It is they who keep governmental machinery on the move.

In the modern age any government is, in fact, a government by professional administrators. In administering the state, the reason for the importance of the civil service is two-fold. In the first place, it is not possible for the inexperienced ministers to run the administration. Secondly, the civil servants are efficient, experienced, neutral and permanent. So the negative role of the political executive on the one hand, and the positive role of the professional administrators on the other, have made the civil service important.

It has been aptly observed by Laski that the political executives have an amateurish outlook towards administrator, for, they are not professionals and have permanent links with it. They

are appointed as administrative heads not by reason of experience or ability, but for political reasons. Naturally, in administering the department of which they become heads, their experience is quite negligible. Change of portfolios and resignations take place too often and this deprives ministers of any scope of gaining experience. In a word, they are inexperienced and non-professional, however capable they are politically. As P. H. Appleby says, "The hall mark of democracy is dominance of government by politicians popularly oriented, chosen and accountable, and those skilled in popular policies are inevitably and desirably amateurs in everything else."

On the other hand, administration has been becoming a technical and specialized subject gradually. So that administrator needs to have specialized knowledge which is gained through training and experience. The civil servants take to administration as a career, as a profession and so they acquire the experience and efficiency that are needed for becoming successful administrators. Moreover, their non-partnership help them to administer reasonably; efficiently and systematically. In effect, they are indispensable for the administration of the country. If the civil servants keep themselves off their work for just a day, we will not feel the existence of the government for that day.

The importance of the Civil Service has particularly increased during the last hundred years or more, specifically, since the First World War. The two World Wars have enormously enlarged the range of work of the Civil Service. In India after the independence governmental activity in general and governmental expenditure in particular have gone up greatly and this has enlarged the responsibility and importance of the Civil Service also. Governmental expenditure has doubled during these years even in America where public enterprise is limited. The increase of governmental activities and expenditure means increase of the activities and importance of the Civil Service. In view of the growing importance of the Civil Service in Britain, a separate Ministry of Civil Service was created there in 1968.

The Civil Service involves itself not merely in the administration but makes itself felt in legal and financial matters also. It helps not only in the execution of policies, but also in formulating them. As Ramsay Muir says, "The permanent Civil Service is to be found not only in administration, but also in legislation and

finance; it not only administers the laws, it largely shapes them; it not only spends the proceeds of taxation, it largely decides how much is to be raised and how."

Thus in a word, the function of the Civil Service in the modern state is not merely the improvement of government; without it, indeed, government itself would be impossible.

4.36. Civil Service of India

The British introduced in India an administrative system that would enable them to retain their power here. The system of administration in India was organized as an instrument of British oppression and exploitation. But the outlook of the government underwent a thorough change after the independence. Welfare principles and socialistic ideals and programmes have been envisaged; broad economic projects have been under way. Planned economy is the order of the day. As a result, there has been a great change in the orientation and volume of governmental activities. A vast number of government servants equipped with capability and experience was necessary to implement the plans and programmes of the government. For the implementation of the various government programmes separate services under the Civil Service have been created. Some of these services are the Police Service, the Administrative Service, the Foreign Service, the Education Service, the Forest Service, etc.

To conduct examinations for the recruitment of the civil servants and to advise the government on various other relevant matters, a Union Public Service Commission has been created at the Centre and one State Public Service Commission each for every federated state.

A. Union Public Service Commission

According to Article 315 of the constitution of India there must be a Union Public Service Commission at the Centre. This Commission will have a Chairman and a few members. They will be nominated by the President of India. The members will be in office for a term of six years but will have to leave after 65. Half the members must have at least ten years' experience in government service. The number of members will be determined by the President. The present number of the members of Union Public Service Commission is eight.

The President has the right to fix and determine the salary of the members and their service conditions. The service conditions under which a member accepts the assignment cannot be changed thereafter, so long as he is a member. The Chairman will get a salary of Rs. 4000 a month and the members will get Rs. 3500 each. Only the president can remove a member from office and that too on definite grounds.

According to *Article 320* of the constitution the Union Public Service Commission has the following functions :

- (1) conducting examinations for recruitment to various central government posts ;
- (2) helping the federated states in recruitment to state government posts. The Union Public Service Commission extends its help only if one or more states request so ;
- (3) advising the Union and State governments on the following :
 - (a) any matter relating to recruit to the Civil Service ;
 - (b) formulation of policies regarding the Civil Service particularly in respect of appointments, promotions, transfer, etc ;
 - (c) matters relating to discipline ;
 - (d) claim of pension by government servants who sustain injuries while in service ;
 - (e) any matter that may have been sent by President or the Vice-President for the Commission's consideration.

Thus besides appointment, various other important matters like maintenance of discipline and some semi-judicial matters are left for the Commission to look after. The central and state governments may at times frame rules to control and regulate the activities and jurisdiction of the Public Service Commission. The Commission's jurisdiction may be enlarged by Parliamentary statutes. By such statutes the governmental enterprise or local government may be brought within the Commission's jurisdiction. The Commission will submit, according to the constitution, an annual report of its work to the President. The recommendations of the Commission are not binding on the government, but the government in most cases tries to accept the Commission's recommendations.

B. State Public Service Commission

Though the Union Public Service Commission may, on a state

government's request, take up work for that state with the President's consent, the constitution nevertheless provides that there shall be a State Public Service Commission for each state. There is a Public Service Commission in West Bengal. There may be one State Public Service Commission for two or more states. The constitution states that "Two or more States may agree that there shall be one Public Service Commission for that group of States, and if a resolution to that effect is passed by the House, or where there are two Houses, by each House of Legislature of each of those States, Parliament may by law provide for the appointment of a Joint State Public Service Commission to serve the needs of those States". There is a Joint Public Service Commission for the States of Punjab and Haryana.

The composition of the State Public Service Commission is more or less similar to that of the Union Public Service Commission. The members of the State Commission are nominated not by the President but by the Governor. The functions too are similar. Only the jurisdiction of the Union Public Service Commission is far wider than that of the State Public Service Commission. The jurisdiction of the Union Public Service Commission extends to entire length and breadth of the country because it is related to the Civil Service of the Union Government. The jurisdiction of the State Public Service Commission is limited within the State concerned.

Exercise

1. "The business of a modern government divides itself into three main parts—legislative, judicial and executive."—Discuss. (4.1)
2. What are the principal organs of the government? Discuss their respective functions. (4.1)
3. Discuss the theory of Separation of Powers. Is this theory desirable and acceptable? (4.2) [H.S.C. '78, 89]
4. Explain the theory of separation of powers. "Rigid separation of powers is neither possible nor desirable."—Discuss. (4.1) [H. S. C. '80, 82, 84]
5. What do you mean by Executive as an organ of the government? Discuss the functions of the Executive. (4.4)
6. Distinguish between Single and Plural Executives. Discuss their respective merits and demerits. (4.5)
7. How is the President of India elected? (4.7) [H. S. C. '82, '84]
8. Discuss the powers and functions of the President of India. (4.8) [H. S. C. '81]

9. Discuss the Emergency powers of the President of India. (4.8)
[H. S. C. '80, '85]
10. Discuss the constitutional powers and position of the President of India. (4.9 and 4.10) [H. S. C. '78, '83]
11. Write a note on the Vice-President of India. (4.11)
12. Describe the composition and functions of the Union Council of ministers. (4.12)
13. Discuss the powers and position of the Prime Minister of India. (4.13) [H. S. C. '80, '85]
14. Discuss the role of the Governor. (4.14 and 4.15) [H. S. C. '83]
15. Discuss the powers and position of the Governor of an Indian State. (4.15 and 4.16) [H. S. C. '79, '81, '85]
16. Discuss the powers and position of the Chief Minister of a State. (4.18)
17. 'The Chief Minister is the real ruler of an Indian State'—Discuss. (4.18)
18. Discuss the composition and functions of the Council of Ministers of a State. (4.17)
19. Discuss the arguments for and against Bi-cameralism. (4.20) [H. S. C. '79, '81, '84]
20. Discuss the composition of Lok Sabha and Rajya Sabha. (4.20)
[H. S. C. '84]
21. Discuss the functions of Parliament. (4.21) [H. S. C. '83]
22. Discuss the composition of the Lok Sabha and Rajya Sabha of the Indian Parliament. Discuss the functions of the Parliament. (4.21)
[H. S. C. '78, '81]
23. Discuss the relation between two Houses of the Parliament of India. (4.22) [H. S. C. '80]
24. Write a note on the Speaker of the Lok Sabha. (4.23) [H. S. C. '79]
25. Describe the process of law-making in Indian Parliament. (4.26)
26. What is a Money Bill? How is it passed? (4.26)
27. Discuss the composition and functions of West Bengal State Assembly. (4.24) [H. S. C. '82]
28. Discuss the process of law-making in the West Bengal State Assembly. (4.26)
29. Discuss the functions of the Judiciary in a modern State. (4.27)
[H. S. C. '80]
30. Discuss the organization, functions and importance of the Judiciary. (4.27) [H. S. C. '79]
31. How can the independence of the Judiciary be secured? (4.28)
[H. S. C. '79, '85]
32. Give an outline of the Judicial System of India. (4.29)
33. Discuss the composition and functions of the High Court. (4.29)
[H. S. C. '81]
34. Discuss the powers of the High Court. (4.29) [H. S. C. '85]
35. Discuss the composition and functions of the Supreme Court of India. (4.29) [H. S. C. '84]
36. "Supreme Court is the guardian of the Constitution". — Discuss. (4.29)

37. How are the judges of the Supreme Court appointed and dismissed ? (4.20) [H. S. C. '79, '83]
38. Discuss the composition and functions of the Union Public Service Commission. (4.32)
39. Write a note on West Bengal Public Service Commission. (4.32)

Objective-type Questions

1. (i) Name the three divisions of the Government.
 (ii) What is the highest executive post in India ?
 (iii) What is the highest court of the state ?
 (iv) What are the jurisdictions of the Supreme Court of India ? [H. S. C. '78]
 (v) Who is the leader of Lok Sabha ?
 (vi) In how many grades is the union cabinet divided ?
 (vii) In how many Houses is the Indian Parliament divided ? What are they ? n
 (viii) Who is the chief exponent of the principle of separation of powers ? [H. S. C. '79]
 (ix) By whom is the Vice-President of India elected ? [H. S. C. '79]
2. Fill in the gaps :
 (i) Montesquieu discussed the Principle of Separation of powers in his treatise _____ published in 1748.
 (ii) There is a _____ headed by the Prime Minister to advice the President of India.
 (iii) The President of India is elected for _____ years.
 (iv) The President can declare emergency under Article _____ if there is constitutional deadlock in a State.
 (v) The Governor of a State is not a real ruler, he is a _____ ruler.
 (vi) The leader of the majority party in the Lok Sabha becomes the _____.
 (vii) The leader of a State Legislature is the _____.
 (viii) The Lok Sabha is composed of a maximum number of _____ members.
 (ix) The _____ appoints the judges of the Supreme Court.
 (x) The Lok Sabha is elected for a term of _____ years. [H. S. C. '79]
3. Tick (✓) the correct answer in the brackets :
 (i) The chief exponent of the theory of separation of powers is (Hobes, Hegel, Montesquieu) [H. S. C. '79]
 (ii) The principle of separation of powers has been partially effective in (Britain, the U.S.A.)
 (iii) Plural executive is seen in (the U.S.A., India, Switzerland)
 (iv) The President of India is a (real executive head, constitutional head)
 (v) Complete separation of power (is, is not) feasible. [H. S. C. '83]

- (vi) The Vice-President of India is (nominated by the President, directly elected, *indirectly elected*). [H. S. C. '83]
- (vii) The President of India is elected by the (members of both Houses of the Parliament, *member of both the Houses of the Parliament and members of all the State Assemblies*). [H. S. C. '78]
- (viii) The candidate for the Presidentship of India must be above (21, 24, 35) years of age.
- (ix) The judges of the Supreme Court are appointed by the (*President, Prime Minister, Governor*).
- (x) The Union Council of Ministers is collectively responsible to the (*President, Parliament, Lok Sabha*).
- (xi) The Governor of a state is appointed by the (*President, Prime Minister, Parliament*).
- (xii) The real executive head of an Indian State is the (*President, Governor, Chief Minister*).
- (xiii) The Legislature of West Bengal is (*Unicameral, bicameral*) [H. S. C. '81]
- (xiv) The upper House of the Indian Parliament is called the (*Lok Sabha, Rajya Sabha*).
- (xv) The President of the Lok Sabha is the (*Speaker, Chairman, Vice-President*).
- (xvi) The Chairman of the Rajya Sabha is the (*Prime Minister, Vice-President, President*). [H. S. C. '78, '85]
- (xvii) The Rajya Sabha is a (*permanent, temporary*) House.
- (xviii) The number of members in the West Bengal Assembly is (218, 244, 294).
- (xix) The presiding officer of the West Bengal Assembly is the (*Governor, Chief Minister, Speaker*).
- (xx) The (*Governor, Chief Minister, Speaker*) decides whether a bill is a Money Bill.
- (xxi) The highest court of adjudication in India is the (*High Court, Supreme Court*).
- (xxii) The (*President, Supreme Court, Union Council of Ministers*) is the guardian of the Constitution of India.
- (xxiii) The Governor of a State is elected by the (*President, Prime Minister, State Assembly*). [H. S. C. '78, '85]
- (xxiv) India is (*federal, quasi-federal, unitary*). [H. S. C. '80]
- (xxv) The members of the Union Council of Ministers are appointed by the (*President, Prime Minister, Lok Sabha*) [H.S.C. '83]
- (xxvi) The Chief of a State is appointed by (*Governor, President, Prime Minister*). [H. S. C. '80]
- (xxvii) Rajya Sabha is a house of (*States, Governor, the Indian Parliament*) [H. S. C. '81]
- (xxviii) The Vice-President of India is (a member of the Union Cabinet, *Chairman of the Rajya Sabha, Speaker of the Lok Sabha*). [H. S. C. '81]

- (xxix) The Supreme Court of India is a Court with (original jurisdiction, appellate jurisdiction, *original-appellate-advisory jurisdiction*. [H. S. C. '81, '85]
- (xxx) The Prime Minister of India is appointed by the (Supreme Court, *the President*, the Lok Sabha). [H. S. C. '82]
- (xxxi) Lok Sabha is elected for (four, *five*, six) years. [H. S. C. '79, '82]
- (xxxii) In India General Election is conducted by the (Central Government, State Governments, *the Election Commission*). [H. S. C. '79, '82]
- (xxxiii) The President can proclaim emergency in a State under article (352, *356*, 360).
- (xxxiv) There is provision for the proclamation of National Emergency the article (352, *356*).
- (xxxv) The President of India (is, *is not*) bound by the advice tendered by his Council of Ministry. [H. S. C. '84]
- (xxxvi) The Chief Minister of an Indian State is appointed by the (President, *Governor*, Legislature). [H. S. C. '84]

"Although party is often extra-constitutional, it is an essential organ of every large scale democracy."

—MacIver

CHAPTER FIVE

Public Opinion and Political Parties

5.1. What is Public Opinion ?

Democracy is a Government which is carried on in accordance with public opinion. Hence it is not possible to make democracy successful without the existence of an organized, conscious and sensible public opinion. So there have been increasing attempts at analysing and assessing public opinion with the spread of democracy. The government endeavours to measure up public opinion ; different political parties try to organize public opinion. In the democratic system of government no political party, ruling or opposing ; can possibly ignore public opinion. In fact, public opinion is a mirror, that reflects what the people at large think. If public opinion on a certain issue changes, the ruling party tries to adjust its policies accordingly. This keeps democracy well on its track. In MacIver's words, *This incessant activity of popular opinion is the dynamics of democracy.*

In common talk the opinion of all the people is called public opinion. But all men cannot have the same view on any issue. Different classes of people and different parties hold different opi-

nions about almost every matter. So it is not proper to think that public opinion can be formed only if all men are of the same opinion. It would be a nice thing if all men held the same view about important social and political questions. But there are men of different tastes, different predilections and different natures. It is almost impossible that all people will agree on every conceivable question. The conclusion that can be drawn from this is that public opinion can be organized even if there is some disagreement among the people.

Some people believe that the opinion of the majority is public opinion. In democracy the government rules the country by virtue of majority decision. But public opinion is not necessarily the opinion of the majority. As Lowell points out, "a majority is not enough and unanimity is not required." The term public opinion, as Bryce understands it, should denote "the aggregate of the views men hold regarding matters that affect or interest the community." Public opinion is the opinion of the people which is related to the problems of the state, which seeks to bring about the welfare of the people and which is responsible and definite and not fluid or irresponsible. The leaders of the political parties try to spread their well thought-out opinions among the people and thus to enlist their support. Public opinion is formed in this way. But all men do not accept their view absolutely. Yet public opinion can be formed if a sizeable section of people accepts the essence of an opinion.

Any opinion that may be in the air is not public opinion. Public opinion has a character of its own. In Finer's view, there are three elements of public opinion. The first element is information, the second is its evaluation and the third is chalking out the programme on the basis of this evaluation. So by public opinion we mean an opinion held by a good number of people—an opinion with regard to any social, political or economic issue, an opinion that is inspired by the motive of public welfare and not the furthering of the interest of a section of the people, an opinion that is definite and responsible.

About the nature and source of public opinion Bryce says that initially public opinion is misleading, perfunctory, incoherent and

indeterminate. It is fluid and changes every week. But soon a clear form emerges out of this indeterminate and fluid opinion. If we look at the formation of public opinion a bit closely, we do not fail to realize that initially public opinion does not have any definite form ; it has no recognizable opinion then. It is then just a conglomeration of views, sometimes even half-baked. At this stage we find a strange co-existence and mixture of patriotism, blind faith, superstition, class antagonism and personal likes and dislikes. Then there is discussion and analysis of only the more reasonable and important of the views. Through these discussions and evaluations the opinions gradually take shape and become integrated.

But even then they do not become public opinion. A particular opinion must be supported or accepted by a good number of the people at large. Then through speeches, editorial of newspapers, books, manifestos, posters, radio and other agencies a large section of the people come to be abreast of it and to support it. Then only public opinion is said to have been formed.

Some critics say that there is no such thing as public opinion. They believe that public opinion is neither public, nor opinion. The people do not, in their opinion, have any opinion of their own. What is given out to be public opinion is in fact nothing other than the opinion of the political parties and a handful of leading men. They with clever artifice impose their own opinion on the people, who are by and large very impressionable and gullible. Some critics have, by way of analysing the nature of public opinion, said that public opinion is so shifting, so indifferent and so emotional and irrational that we can only jeer at it, though at times its demonic power is let loose. Robert Peel defines public opinion as "the great compound of folly, weakness, prejudice, wrong feeling, right feeling, obstinacy and newspaper paragraphs". In spite of such admonition we must admit that public opinion reflects the people's feelings, wishes and views and that is why it is not possible to ignore it. With this in view we may say with F. M. Sait that "there should be no question about what we mean by calling public opinion *public* ; we mean, in the light of long established usage, that it is the opinion of the community, the opinion of the people".

Characteristics of Public opinion

The following characteristics of public opinion are noticeable :

In the first place, public opinion does not originate from any personal or private matter. Public opinion must be concerned with the national issue.

Secondly, there may be in existence two very different opinions about the same problem. This difference results from difference in outlook and difference of social positions among the people. If both these opinions are favoured by sizeable portions of the population, both may be regarded as public opinion.

Thirdly, any opinion that may be held by the people is not public opinion. An opinion that is related to the national or common interests and that seeks to look ahead and has hints at solutions of problems is worthy of being regarded as public opinion.

Fourthly, it is possible for a large chunk of the population to be swayed by a momentary impulse. People sometimes may act extremely irrationally and unreasonably. But any opinion that is not based on cool reason and a broad sense of well-being is not fit to be called public opinion.

Fifthly, public opinion is the opinion of a considerably big section of the people. There is no hard and fast rule about the number of the people whose support must be there. More importance has, however, been attached by critics to the character of the opinion and the firmness of the confidence of the people than to the number of supporters behind any opinion.

Sixthly, public opinion exerts considerable influence on the formulation of government policies, directly or indirectly.

5.2. The Importance of Public Opinion in a Democracy

As a result of the spread of democratic consciousness in the modern world, democratic governments have been set up in many states. This has inevitably increased the importance of public opinion. Public opinion had no importance in an age in which the tyrannical Kings rode roughshod over popular feelings and ruled according to their own wish. But in our age, public opinion has a formidable role in the formulation of governmental policies. In fact, democracy is highly dependent on public opinion.

Democracy cannot succeed unless there is a sensible, organized and healthy public opinion. This view was held by Rousseau.

President Abraham Lincoln defined democracy as *a government of the people, by the people and for the people.*

Conscious public opinion is part of democracy This makes it amply clear that the people directs the government. Rousseau says, *The voice of the people is the voice of God.*

He opines that the source of sovereignty lies in the *General Will*. A state where there is no well organized public opinion is hardly the right place for democracy.

There is no power on earth that can trample public opinion under foot. The noted author, Henry Maine, has said that even such a powerful ruler as Ranjit Singh of Punjab did not dare to go against public opinion. The President of the U.S.A. and the Prime Minister of the U.K. are obliged to take serious cognizance of public opinion. When the British Premier Anthony Eden invaded Egypt in utter disregard of public opinion, he later had to bow out before the terrific pressure of public opinion.

If public opinion is flouted by rulers, their rule degrades into autocracy. Mussolini with the help of his Fascist party in Italy and Hitler with the help of the Nazis in Germany succeeded for a time in completely repressing public opinion and in establishing dictatorships in these countries. Democracy in these countries were dashed to the ground. Communalism, class interest or foreign domination may for a time subdue the democratic urge of a country, but this cannot last for ever. Public opinion will at one time break the domination loose.

Public opinion is important in democracy for two more reasons. Firstly, if there is scope for the expression of clear and definite opinion, there will not usually be excess and misuse of power. Government is an organization of power. In other forms of government,

No excess of power in democracy power is concentrated in the hands of a person or group. But in democracy it is diffused and decentralized in many hands. The Legislature, the different political parties, the Executive and the Judiciary are some of those. In democracy, therefore, there is a plurality of ideas and opinions existing happily side by side. No one can exert too much pressure on the government; other centres of power put up resistance to this. Only, there can be a number of groups and centres of power vying with each other. There may be an opinion favoured by a group, another group may oppose it. Out of these an opinion will come out better and more powerful than the other and

will help the government in formulating its policies and in executing them.

Secondly, whether it is a democracy or a dictatorship, the fundamental point of Political Science is the ground of political obligation. In other words, Political Science seeks to explain why men obey the State. This has been the main endeavour of political Science ever since the days of Plato and Aristotle. If we do not see the reflection of our feelings and thoughts in the laws we will not find any reason for political obligation. If the public opinion can exert influence, the people can feel that the laws are but a projection of their feelings and demands. So it is then possible for the people to pay obedience to the State. That is why it has been said that the rule of the public opinion prevents rebellion and revolution and renders permanence to democracy.

How much democratic the government of a state is depends on the power, extent of influence and effectiveness of its public opinion. A country where public opinion exerts a formidable influence is considerably democratic. The government that is respectful of public opinion is regulated by public opinion. In such a country democracy develops better. On the other hand, a country where there is no healthy, conscious and organized public opinion is not likely to be a good place for the people to live in. Welfare programmes for the people may not be adopted there. In fact, public opinion is the safeguard of democracy.

If we look at the world around us, we will see that the governments of many countries often feel compelled to change their course of action or policies under the pressure of public opinion. We can recall, for example, the *State Reform Act* of Britain in 1832. The British government was compelled to introduce this act under the tremendous pressure of public opinion. In 1956 the government of India proposed the merger of West Bengal and Bihar. But the plan met with so great a resistance that it had to be baulked. Here, too, public opinion played its role duly. Thus if there is organized public opinion in a country it is possible for it to exert considerable influence on the government. Popular strength and popular support are but two pillars of democracy. It is possible for the conscious citizens to remain apathetic towards their government. And it is,

Pressure of public
opinion : examples

likewise, not possible—nor is it good either—for the democratic government to ignore public opinion.

5.3. The Agencies for Formation of Public Opinion

The ordinary people of a country are generally apathetic towards the activities of the State. Public opinion can be organized by rousing their interest. There are certain ways in which the ordinary man's apathy can be broken and interest and excitement can be roused among them. There are a number of agencies through which public opinion is formed and organized

1. *The Press*

In modern times, the newspapers and journals have helped a great deal in forming public opinion. The importance of the newspapers is great because they educate the people, they spread political consciousness among the people and because we get them at a very low price. An English author has described the Press as the Government's *third eye*. The newspapers do not merely furnish information, they provide comments on them as well. The readers,

Role of the Press informed and equipped as they are by various pieces of information and by comments on them by the leading personalities, are able to form their own opinions. There are thousands of instances of this. The newspapers played their role during the anti-Bengali frenzy in Assam and in the Bengal-Bihar merger issue. These are but two of the great number of examples. In the modern democratic state, the Press has considerable independence. Any mistake or unworthy act of the government is immediately flashed in the newspapers. A democratic government can see in the mirror of the newspapers which way the wind blows.

Of course, it must not be forgotten that the role of the Press is not commendable everywhere. The newspaper press is a business, and the primary aim of the owners of a newspaper is to make profit. Each newspaper knows what its readers look for.

The Press does not always play its role Each newspaper tries to cater to its reader's tastes. Very few newspapers dare to go against the reader's tastes, for that may bring down the sale. Newspapers sometimes thrive on advertisements offered by big industrial firms. It is only natural that the newspapers will try to protect their advertisers' interests. With this purpose, the newspapers sometimes very care-

fully and cleverly distort news or publish half news in a manner that will leave ample scope for confusion. Each particular newspaper represent the interests of a social class or group. So we cannot regard the Press as the mirror of public opinion. Some suggest that the newspaper should be nationalized, but this only make matters worse for democracy. Rather, efforts should be made to keep the newspapers neutral and independent so that they may not serve wrong or distorted news willingly and do not represent any vested interest.

2. *Platform*

The importance of meetings and discussions in the formation of public opinion is great. The people, whether educated or not, are influenced considerably by the speeches made by eminent leaders or famous speakers. In public meetings problems are discussed from different points of view. This enables the people to understand problems better and to form their own opinion about them. Some speakers speak in favour of an issue and other against it. Thus various sides of an issue are presented to the people through public platform.

3. *Educational Institutions*

Educational institutions like schools and colleges are important agencies for the formation of public opinion. The education that young pupils get in their boyhood and early youth prove to be permanent. This education leaves a lasting imprint on their minds. Most of the national leaders and great thinkers had their formative time in their schools and colleges. The pupil of today will in future be responsible citizen of the state. May be, he will attain prominence as a political leader or a thinker. The books the students read, the teaching they receive at school and colleges and the ideals they learn to uphold, stand them in good stead in future. In fact, educational institutions are nurseries of future citizens. It is quite understandable why Hitler and Mussolini, and before them Metternich, were very careful not to allow schools and colleges to teach the pupils freedom of thought and other democratic ideals. School and colleges rouse in the proper inquisitiveness; they rouse doubt; they teach them not to accept anything uncritically. Thus if properly taken care of, educational institution can act as important agencies for the formation of public opinion.

4. *Political Parties*

Political parties are essential for democratic states. Different political parties hold out different programmes and plans before the people. These parties try to organize public opinion through meetings, manifestos and party journals. Lowell says that the political parties are the brokers of ideas. It is through the political parties that the people often come to know about different aspects of the problems of the country. The parties thus help in the formation of public opinion.

5. *Radio and Cinema*

In the modern age the radio, the television and the cinema are the most powerful and effective agencies for the formation of public opinion. The newspaper circulation has its limitations. Only the educated people read them. But the cinema, the television and the radio have a considerable advantage over the newspaper as agencies for public opinion. Any person, rich or poor, literate or illiterate can be approached through these media. The cinema and the radio moreover teach through recreation. In our time, these agencies have become very popular. Famous authors, teachers, political leaders and social reformers find in the radio a very effective means for the spread of their views. Their radio speeches and features help greatly in the formation of public opinion. Television and radio are now so effective media of contact between the government and the people, that some scholars even venture to say that the direct democracy of the remote past has returned.

6. *Legislature*

The views of the people are expressed in the Legislature through their representatives. In the Parliament, there are representatives of almost all the political parties. From the reports of the discussions and debates in the Parliament, the people become informed of the problems and issues. It is then possible for the people at large to form opinions of their own about these issues. The speakers speaking in the Legislature do not address the House only; they wish their speeches to be heard and noted by the entire population of the country. By the press and by the radio and the television the speakers are brought closer to the people.

Now, how do these agencies form public opinion? How do the people form a correct idea of a problem? We get an enormous

mass of information from various sources. It is not possible for us to get direct information always. So we have to bank on second-hand or even third-hand sources of information. The radio, the newspaper, the cinema are some of these sources. But at each stage the agencies distort the information or news according to their interest and purpose. Thus what we get is hardly the correct and undistorted news. The citizen is bewildered by a terribly misleading mass of information. The opinion which he forms—if, of course, he can form any—is hardly reasonable, rational or powerful. More often than not, the opinion of the neighbour or the friend becomes his opinion. He is influenced by his environment. In fact, most of the modern campaign media impose certain ready-made opinions on the ordinary people. These media or agencies are often used as the instruments of the more powerful classes or social groups. They drive their opinions through the various agencies. Thus it is more correct to say that in most cases these agencies impose opinions on the people than to say that they form public opinion.

5.4. What is a Political Party ?

When some men hold the same views about some issues and organize themselves in support or in furtherance of their views this organization is called a Party. There may be many parties formed for different purpose and by different men. But all are not political parties. According to Burke a political party "is a body of men united for promoting, by their joint endeavours, the national interest upon some particular principle in which they are all agreed". So the purpose of a political party is, in Burke's view, the promotion of the welfare of the people. MacIver defines a political party "as an association organized in support of some principle or policy which by constitutional means endeavours to make the determinant of government". MacIver means that a political party has some principle and seeks to secure governmental power by constitutional means.

So we may say that when some people of a country become agreed on some programmes and organize themselves on the basis of these programmes and seek to capture state power in constitutional ways, this organization may be called a political party. Barker says that though the different political parties, have different

views and different programmes they are seen to be inspired by national welfare on the whole, and to try to get the favour of the electors by upholding plans and programmes which largely conform to the national goal.

If we analyse the above definition we find certain features that all political parties must have. In the first place, the people belonging to a party must organize themselves on the basis of a principle and an ideal. Secondly, the paramount ideal of a party should be the good and welfare of the people. Thirdly, the party, by spreading its views among the people in various ways, tries to capture the government by constitutional means. Fourthly, if the party can win governmental power it will endeavour to implement its programmes and achieve its ideals by using governmental power. And finally, if it fails to capture power, it will play the role of a responsible opposition party.

There arise many parties in a country because there may be different views about how the good of the people can be attained. All parties do not believe in the same principles and they all have different programmes. Sometimes two parties are found that have more or less the same end in view but they differ in the means, in the way in which that end is to be reached. Thus most countries now-a-days have more parties than one, each standing for a principle, for a plan for the future.

Parties and factions are different things. When a few people are united not for the good of the country but to further their narrow self-interest, we should better call it a faction rather than a political party. A faction puts individual interest above national interest. There may be factions, cliques or groups within a party.

Recent ideas on political parties

In recent times the roles of political parties and pressure groups have become highly important. The recent tendency is to evaluate parties in the perspectives of their aims, composition and methods. Some think that a political party should be judged by its general aims.

The general aim of political party is to capture power. Joseph

thinks that the primary and principal aim of a political party is to exert pressure and influence on others in order to come to power or to remain in power. In the opinion of Samuel Eldersveld, "the political party is a social group, a system of meaningful and patterned activity within the larger society."

In this respect, the views expressed by French scholar Maurice Duverger sound important. In his opinion, "a party is a community with a particular structure."

Marxist view of Political Parties

Karl Marx and the other exponents of scientific socialism have a completely different view of the political parties. They think that there are various classes in the society because of economic enequality. The interests of the different classes very often clash. Every political party represents a class. Every party has certain class interests to serve. The interests of men who own the means of production cannot be the same as those of men who earn their bare livelihood by dint of their physical labour. To be more specific, the interest of landlords, industrial capitalists, landless peasants and wage-earners cannot be the same. This explains the existence of various class interests. Some parties represent the interest of the peasants, others of the zamindars. It is not possible for one and the same party to represent the contradictory class interests of the peasants and the zamindars. So to protect the interests of different classes in a society where economic inequality exists different parties must grow as a matter of course.

Thus according to the Marxists, different political parties arise not because of the difference of principles and programmes, but because of the existence of different classes. Moreover, the Marxists do not believe in MacIver's prescription that political parties try to capture the government by constitutional means. They, on the contrary, think that the ruling class introduces laws and the constitution in such a manner as would best preserve and further their class interests. It is never possible to bring that class down from the seat of power by constitutional means, that is, by means of methods prescribed by the ruling class itself. No oppressor class can allow its own grave to be dug so peacefully. So the Marxists think that the party of the proletariats can only capture power by revolutionary means.

5.5. Party System

With the growth of parliamentary democracy, the political parties have grown in maturity everywhere and there has been increasing tendency to form government on the basis of the party system. Which party will run the government and according to which principles are decided in a party system by citizens who have the franchise. In a democracy every citizen exercises a minute part of sovereignty.

These small particles of power, diffused and decentralized, are combined and transformed into political power. The party which gets the support and favour of the majority of the people wins political power. Political power needs to be centralized, located and integrated and this is done by the political parties.

In society where inequalities abound, tensions and conflicts among the different classes occur very often. Out of these tensions the political problems grow. The political parties are chiefly concerned with these problems and their solution. Each party adopts programmes for tackling the problems in its own way. Each party holds out its programmes before the electorate and tries to win the people's favour. Franchise has armed the people with political power. Each party endeavours to have this power behind it. Thus in place of the competitions between one individual and another which was so well-known a feature of the ancient times, we now have institutions vying with each other. These competing institutions are the political parties are "inevitable like the tides of the ocean."

In the party system different parties come out with their views, programmes and manifestos and take part in the election. The party which has the largest number of successful candidates forms the government. When one party fails to have a clear or absolute majority, a coalition of like-minded parties forms the government. The manifesto or programme which the party held out at the time of the election is to be implemented by it if it forms government. The party or parties which will fail to capture governmental power will play the role of the opposition party or parties. They will make constructive criticism of the actions of the government and will hold it in

check. They will be, moreover, trying to win popular favour in the next election.

Thus in democracy the party system runs through competition before the elections and cooperation after them. Some critics believe that the party system thrives better in countries where there are two parties. It may be pointed out by the way that Britain and the U.S.A. have two parties each. Anyway, we may say with the *Finer* that democracy "rests, in its hopes and doubts, upon the party system. There lies political centre of gravity."

5.6. Functions of a Political Party

Lord Bryce, discussing the functions of a political party, says that a political party has two chief functions to perform—to spread the party's principles through debates and discussions and to participate in elections. Though a great part of the party's time and energy is taken up with electioneering, the functions of a political party have now-a-days increased greatly both in variety and volume. The functions are discussed below.

Firstly, the political party formulates its principles with regard to the national problems and issues. It determines the principle according to which it will seek to deal with those problems; it will spell out the programmes which it will follow.

Formulating the party's principles There may be within a party differences of interests. Attempts will have to be made, while preparing the party's programmes and principles to reconcile these differences as far as possible. Attempt should be made at achieving some sort of a temporary consensus, so to say.

The second important function of a political party is to spread the party's principles and programmes among the people. The party usually does this through several campaign media like the newspaper, pamphlets and meetings. Through these the party tries to influence the people and to make sure that a considerably large number of people will approve of its principles. The ordinary people of the country do not have the drive to initiate movements or organize public opinion. They can only follow but cannot lead. When we speak of the people in general, it immediately conjures up the picture of a strange and huge collection of men of widely differing classes, groups and views. The party places

its principles and programmes before the people with a view to inspiring them and winning them over. Slogans are to be formulated in such a manner as would easily evoke interest among the people. The people must find in these slogans a solace to their untrammelled passions and a way out of the bog of confusion. A people, unorganized and leaderless, are just a mob or a rabble and can at best produce fruitless noise; the same people under proper leadership can be a real force to reckon with. It is the function of the political party to give leadership. As more people have confidence in its principles and programmes its popularity increases.

Thirdly, every political party springs into activity at the time of the election. Every party nominates its candidates. The most acceptable and popular men are usually put up. These candidates fight the election-battle as the representatives of their parties. They use all sorts of ways to influence electors. Pamphlets, manifestos, personal contacts and meetings are some of the weapons used in election-battles. Some parties, in order to win public favour, make impossible promises and give wrong and untruthful pictures. They try to combat the other contending parties. In times of election the parties do not always have any regard for form, good sense and logic. They rather seem to be "convinced that the end justifies the means".

Fourthly, the purpose of a political party is fulfilled if it wins a majority in the Legislature. The leaders of the party form the Cabinet and take over the charge of the government. They after capturing the Government, will try to implement their party's principles and programmes. They rule according to these principles and programmes. They try to keep the promises which they had made at the time of the election.

About these functions of the political party Finer says that they "make policies, create platforms, obtain seats in the legislative assemblies and if they attain a majority their platforms tend to become laws". He says, moreover, that "the first commandment of a political party" is to come out victorious in the election.

Fifthly, if a party fails to attain a majority in the election, it will then have to play the role of an opposition party. The opposi-

tion party keeps the ministers aware of and careful about their responsibilities. It takes part in debates, discussions and criticisms. At times it tries to bring down a ministry by passing a motion of no-confidence against the ministry. Role of an opposition party In democracy, the role of the opposition party is quite important. By bringing to light the poverty and the miseries of the people and by scathing criticisms, it warns the ruling party. It helps the ruling party with constructive suggestions also. This prevents the ruling party from being tryannical. In Britain the opposition party is called the *Shadow Cabinet*. For, if the ruling Party is ever defeated in the Parliament, the opposition party may be called on at any time to form the Cabinet.

Finally, the role of the political party in the formation of public opinion is great. The party forms public opinion in various ways. The political parties by presenting various issues and problems before the people and by making hints at their own suggestions for their solution help greatly in forming and organizing public opinion. According to Lowell the chief function of the party is the creation of public opinion and in fact the party should exist for this.

5.7. Merits and Demerits of Party System

Party system is unavoidable in democracy ; but party system is not without its defects. Let us now discuss the merits and demerits of the party system.

Merits of the Party System

As for the merits, the first is that the party brings order and system out of the chaos of a multitude of voters. The ordinary people do not usually have any specific or definite opinion about political issues. Even if they have any, they cannot express it properly. The political party crystallizes the fluid opinion of the multitude.

Secondly, the political parties by presenting before the people the various problems rouse them from their torpor and make them conscious. This engenders in the minds of the people a desire to serve the country and increases their sense of responsibility towards the country. So the party system educates the people politically.

Thirdly, the Cabinet form of government is impossible without the party system. For, the Parliamentary or Cabinet form of government, the party with a majority forms the government and the parties that fail to secure a majority play the role of the opposition. So the cabinet form of government is inconceivable without party system. The government must have the backing of a majority party, otherwise the government cannot remain in power. The representatives of a party vote enbloc in the Legislature because they have won their seats on their party's tickets. If they vote arbitrarily and in disregard of their party's mandate, the government will fall.

Fourthly, party system is essential for the conduct and preservation of the democratic form of government. Had it not been so, the party that would once get power would govern as it would wish. It cannot then be brought down by any other means than the application of force. Party system ensures political, social and economic changes by peaceful and constitutional means.

Fifthly, party system minimizes the chances of autocracy. Every party can hope to get governmental power at one time or other. For, every party hopes for a majority in the Legislature. This will happen so long as the party system is in existence. This competition is a good thing for the democratic form of government. The ruling party is always warned and criticized by the opposition parties and thus it is not possible for the former to act against the interest of the people.

Sixthly, the political parties by presenting their principles and ideals help in formation of public opinion. The people have before them a variety of ideals, principles and programmes. They can follow this principle or that. They have sometimes to employ their intelligency and good sense.

Seventhly, the prime goal of democracy is national unity and people's welfare. In democracy there are conflicts and competitions no doubt, but it, however, finds out a common unifying factor. The parties when they form the government rise above narrow parochialism and narrow geographical interests, and try to serve the national

interests. In place of narrow regionalism they develop the sense of national integration.

Demerits of Party System

On the other hand, party system has been severely criticized. One of the criticisms is that in many cases the parties put narrow group interests above the national cause. The blind allegiance of the members of the parties force them to disregard the national interests. They forget that the party is not greater than the country; rather the party exists for the country's good. It was possibly in view of this that the founders of the United States of America regarded the political parties as dangerous and harmful. In his farewell speech President Washington said that he considered party system the most dangerous enemy of democracy. Rousseau too is of the opinion that party system prevents the General will from expressing itself in a proper way; for, group interests preponderate.

Secondly, party system thrives at the cost of individualism. Party system destroys the differences of opinion. Members of a party are not allowed to hold opinions different from those accepted by the party. This kills the members power and right to think independently. Individual liberty, individual personality and dignity are sacrificed at the altar of party interests. Party mandates are to be carried out even if it militates against one's conscience.

Thirdly, a party has to win in the elections by any means. This has become almost the sole reason for its existence. And to make the grade in the elections, a party unscrupulously takes any means. Thus a great party of the population of a country, following the party madly and insensibly, becomes morally bankrupt.

Fourthly, able and sensible men do not always see why they should blindly follow the party's decisions and directives. So many capable citizens maintain a safe distance from the parties. Thus many really efficient and capable men are deprived of a direct share in the government; likewise the country is deprived of their service. The majority party, in order to stabilize its power distributes responsibility and power among the supporters and members, without any

consideration for capability and efficiency. This inevitably weakens the government.

Fifthly, the opposition parties are always on the look out for the government's mistakes. They even find fault with the government's good gestures and noble deeds. Thus the opposition acts as a stumbling-block to every government efforts. Naturally, therefore, welfare work suffers immensely.

Sixthly, in the party system the Legislature is divided into several camps so to say. The parties divide not only the Legislature but also the entire population. In place of healthy competition, we have heinous rivalry and an atmosphere of envy, enmity; political pettifoggery reigns supreme. Extreme cases like political murders too are not unknown. As a result, the parties cannot rise to the occasion in times of economic distress or foreign intrusions. It becomes impossible for them to bury their dissensions even temporarily. The country thus gets divided against itself.

Finally, most of the political parties enrich themselves by enormous sum of money subscribed by rich people. As a matter of course these rich people come to control the parties affairs. They dictate the principles and programmes. Or, at least, their interests are very much remembered when these are formulated. The rich and propertied class regard this as a sort of investment. And the parties also act on the directions given by these rich people, for these parties cannot always do without the money.

5.8. Conditions for the Success of Party System

The defects of the party system are very serious no doubt. But this should not lead us to favour its abolition altogether. For, the abolition of the party system may lead to the abolition of indirect democracy also. So we should rather seek to make the party system successful. We shall now see what condition are necessary for the success of the party system.

Firstly, according to many an important condition for the success of party system is the existence of bi-party system. This means that in the political system there shall be two powerful parties only. These two parties must have clearly defined principles. One party will get a majority and form the government. The other party—also

quite powerful—will by criticism and warning compel the ruling party to rule effectively and conscientiously.

Secondly, parties should be formed on the basis and outlook of economic, social and political problems. Parties formed on the basis of religion, race, caste or region are bound to be narrow in outlook.

Thirdly, the formation of any kind of military or semi military volunteers of guards under the leadership of the parties is highly injurious to the success of party system. This goes very much against the democratic principles. The existence of militant bands under a party may terrify the people into favouring it—whatever may be their dislike for it. Political parties will always try to win popularity by means of debates and discussions. They must not use force or the threat of it to bring people in their favour.

Fourthly, the interference of the political parties in day to-day administration is undesirable. The interference of parties in appointments to government services, in promotion and other governmental affairs must be stopped and these should be entrusted to neutral bodies. If political parties have their axes to grind in these matters, corruption may creep in. And corruption, we all know, is an anathema to good government.

Fifthly, the political parties should be tolerant. They should not be impatient of other parties and persons belonging to other parties. In many countries there are quite a few parties each following its own principles and programmes. It may be that one party's principles and programmes stand in direct contradiction to those of the other. But still, the parties should be tolerant and should try to win the favour of the people by peaceful, democratic means. This is very much necessary for the success of the party system.

Sixthly, the parties should rise above all petty considerations of regionalism, communalism and other harmful frenzies. They must look forward to the wider national interests.

Seventhly, proper leadership is another very important condition for the success of party system. Much, in fact, depends on the leaders. If they are not tolerant, liberal, considerate and commanding pleasing but effective personality, there is a good chance for the party's going astray. Sometimes a party with prudent principles and

programmes fails to achieve respect only owing to the lack of proper leadership.

Finally, the existence of sensible and organized public opinion is another condition for the success of party system. Conscious public opinion may compel the parties to behave and act properly and may prevent them from serving narrow group interests.

Do the conditions for the success of party system obtain in India ?

We have seen above that there are certain conditions for the success of party system. Now we will see to what extent they are present in India.

In the first place, some think that the party system cannot succeed unless there is a bi-party system. In India there are different classes and interests. There are also different parties that represent different interests and classes. Thus we have multi-party system in India and not a bi-party system.

In the second place, there have emerged in India in recent times 'extra-constitutional centres of power'. Individuals or groups exert great influence on parties in power. This undoubtedly has weakened democracy in India.

Thirdly, a political party should be formed on the basis of political ideals and philosophy. But in India other considerations like race, religion and caste often play important roles in the formation of parties. This tendency surely jeopardises democracy. Fortunately, there are some parties in India which stand against this harmful tendency.

Fourthly, tolerance of other's views is very much lacking in India today. As a result, political strifes, secret murders of political opponent are taking place. These make the country very much unsafe for democracy.

Finally, a healthy and bold public opinion is a must for democracy. And political parties have a good deal of responsibility for building public opinion. But in India, the people are poor and uneducated. Moreover, many political parties and interest groups control the agencies of public opinion. They form public opinion to suit their purposes. This is highly dangerous for Indian democracy.

So, we may say in conclusion that many conditions that make democracy or for that matter, party system successful, are absent from the Indian scene. Of course, there has in recent times been an awareness that the democratic values should be guarded and upheld. This is the redeeming feature. May be, the democratic forces will be stronger one day.

5.9. The Means for Removing the Defects of party System

Some measures may be taken to remove the defects of the party system.

(1) It should be made sure that any one party does not become overwhelmingly powerful and influential in governmental affairs. This can be made sure if there is popular participation. Referendum should be introduced in legislation. Initiative is another important thing that guarantees popular participation. There are turncoats in every country. Some members of a party change over to another in the hope of some gains or so. This is known as defection. There should be rules for cancelling the membership of these persons. If the representatives do not care to work according to the people's will and demand, they should be recalled. This is known as Recall. Application of the principles of Referendum, Initiative and Recall may remove certain defects of the party system.

(2) To remove corruption in appointments and award of honours, it must be seen to it that none but the really capable and eligible persons are ever appointed or selected for any job or honour. So all government appointments should better be left with an autonomous Public Service Commission.

(3) The constitution should be rigid as far as possible. The ruling party will not then be able to change it at will.

(4) The fundamental rights of the citizens should be properly protected by the constitution, so that the rulers cannot in their party's interest do any harm to them.

(5) If there is an independent, neutral and high-powered court of adjudication in the country, even the ruling party may not dare to act arbitrarily. The judges must not only have independence of action and authority; they must also be just and neutral. They must protect the lawful rights of the people.

(6) The salary, service conditions and other rules concerning their behaviour and jurisdiction should be defined and determined so that they may discharge their functions properly.

(7) The rights and interests of the minorities should be guaranteed in the constitution, so that no party can take any undue advantage of any misgiving regarding these.

(8) Proper education should be introduced and disseminated. Attempts should be made to inspire the citizens with noble political ideals. A good education may go a long way in achieving this. A mature and conscious public opinion is a guarantee against the vices of party system.

5.10. One-Party System

One-party system means a system of government in which there is only one political party. Following the fiasco of the parliamentary government after the first World War one-party rule was set up in a number of states. Special mention should be made of Germany and Italy. After the Bolshevik Revolution in Russia, the Soviet Communist Party was the only recognized political party there. In Germany under Hitler the dictatorship of the Nazi party was harnessed, in Italy, likewise, that of the Fascist party. In both these countries all other parties were suppressed by force. In modern times we are noticing a tendency in some countries towards establishing one-party rule.

One-party rule—
what and where

Arguments in favour

(1) The advocates of one-party rule say that if all the people of a country are inspired by the same ideal and the same principle, that will make for unity, integration and progress. The country will then experience rapid development. It has been pointed out by some that the immense and rapid progress that Soviet Russia has made is due to the fact that there is only one political party there.

(2) In a multi-party system, there is frequent change of government. This means also frequent change of policies, principles and programmes. Frequent changes mar the stability of government measures and there is possibility of the recrudescence of corruption.

(3) Many parties by creating division and dissension among the people punch holes in the integration and strength of the country. But one-party system rouses the spirit of nationalism among the people and helps in unifying the country.

(4) In the one-party system it is possible to govern with efficiency and to take quick decisions and implement them.

Arguments against

Those who are clearly against one-party system point out that (1) The chances of unifying the country do not evaporate if we have more parties than one. The countries like Britain and America have two parties, some other developed countries have more, though each of them is unified.

(2) In one-party system, the channels of individual liberty are clogged. Such a system demolishes the freedom of thought and expression of the individuals; curbs the citizens' political rights; it forcibly compels obedience to the dictator; it is very much against the democratic spirit.

(3) The exponents of western democracy have severely criticized the one-party system and have declared that democracy has no meaning without the existence of the party-system. There must be more parties than one, so that any one party may not become overwhelmingly powerful. Party system opens up avenues for different principles and ideals. The party system places before the people acceptable alternatives. Multi-party system, therefore, is indispensable for democracy.

5.11. One-Party System and Democracy

The western scholars believe that for the success and effectiveness of democracy there must be more than one political party. They think that if there is only one party in the country there will remain before the people no other alternative than to vote for the only party that exists. This will surely beget some sort of party dictatorship. And any kind of dictatorship is against the principle of democracy. If there is one opposition party or more, it is possible for them to provide for alternative programmes and win the favour of the people. They can try to capture governmental power by defeating the ruling party in the election, or, at least, to threaten the ruling party into introducing responsible and welfare programmes.

View of western
scholars

But if, on the other hand, there is only one party, the people's liberty and rights are not always preserved and protected; the people cannot express differences of opinion. For Dictatorship, which in the circumstances arises, brooks no disagreement. Thus real democracy is not possible in the one-party system. It is to be noted in this connection that there is a single party in the Soviet Union also. The western critics do not spare the Soviet Union. They indict Soviet Union no less than they indict the western totalitarian systems.

The Marxists, of course, hold a completely different view. They think that the class position of a country determines the number of political parties that will grow in it. The question is; What is a political party? Each political party represents the interests of a particular class. If there happen to be two contradictory economic classes, there will be two political parties each representing the interests of one of these classes. The interests of these two classes cannot be the same. Their interests are not reconcilable either, it is not possible for one party to represent and protect the antagonistic interests of both the classes. So a country where there are different classes like landlords, peasants, industrialists and wage-earners will surely have different political parties. Normally there will be as many parties as there are classes in a society. In capitalist countries different parties grow up because the interests of all men there are not the same.

On the other hand, in the western totalitarian systems, (notably in Mussolini's Italy and in Hitler's Germany) one party is allowed to exist—that is, the party to which the rulers belong and all other parties are suppressed, so that the interests of the other classes may not be predominant. But since, different classes exist there they will raise their heads as soon as chances would come. The Marxists think that in the Soviet Union and in the other socialist countries only one class exists. The abolition of private property and of the other weapons of oppression abolishes all class distinctions also. All the people there are equal, economically and socially. So it is only natural that in the socialist countries there should be only one political party.

In the opinion of the Marxists, the American democracy and the democracy that obtains in the west European countries are in

essence a democracy for the minorities, i.e., the oppressor class who come to about five percent of the total population, impose their rule on the vast majority. Their rule is democratic in name only; it is in reality a dictatorship. So Lenin described it as controlled, wrong and imaginary democracy. All talks about liberty and the people's rights in these countries are but high-sounding nothing.

On the other hand, in the socialist countries, more than ninety percent of the people enjoy the fruits of democracy and the remaining ten percent have not been able to accept the socialist ideals. They are engaged in treasonable acts and intrigues and are treated accordingly. The dictatorship of the proletariats in the Soviet Union is only another form of democracy. If democracy means popular participation in the government, if it means that the people's liberties and rights are to be safeguarded, then we have a better kind of democracy in the socialist countries. For, the dictatorship of the proletariats means the dictatorship of ninety per cent of the people. If ninety out of a hundred citizens are associated with the government where is then a system better than this?

5.12. Two Party System

A state in which there are two political parties is said to have a two-party system. In such a state there may be some other small parties but they play little or no significant role so that in practice the two major parties make it a two-party system. In the U.S.A. and the U.K. there is a two party system. In the U.S.A. the two big parties are the Republican Party and the Democratic Party. There are a few other small and ineffectual parties there, but the elections are fought between the Republicans and Democrats. In Britain, there were formerly the Conservatives and the Liberals but now-a-days we do not hear much about the Liberals and their place has been taken up by the Labour Party. So there, too, we have virtually two political parties.

In support of the two-party system, Laski says that a political system "is the more satisfactory, the more it is able to express through the antithesis of two great parties."

Merits of two-party system

Critics have mentioned several merits of the two-party system.

Firstly, because one of the two big parties wins majority in the elections, It is possible to form a stable ministry for a definite period of time.

Secondly, in a two-party system the electors find it easy to elect their representatives. In a multi-party system many candidates appear before the voters and naturally the voters become confounded and do not always have a clear idea about whom to choose and on what basis.

Thirdly, in a multi-party system, it may very well happen that no one party is able to win absolute majority. The coalition that is in the circumstances formed, does not always have a clearly defined and unified programme, let alone a definite principle. Coalition are more often than not patch-works and in the rule of a coalition government, unity, stability and definiteness are hardly to be expected.

Fourthly, in a two-party system, there is political balance and poise. One party forms the government, other plays the role of an opposition party. Such a system is healthier and happier.

Defects of the two-party system

Among the defects of the two-party system, the first is that in such a system the wide difference of principles and opinions may not be reflected. The principles of the Labour Party and the Conservative Party are not qualitatively and fundamentally very different. So there is in Britain no alternative for those who do not follow or believe in the principle of those parties. Ramsay Muir has opposed the two party-system. He says that it is a faulty decision to allow only two parties for the entire country. To quote him, "the division of a whole nation into only two political parties must obviously be more or less unreal or arbitrary since it would be absurd to suggest that there could be only two schools of thought in a nation." So it is unwise and unjust to limit the number of political parties of a country to two, for, there may be various schools of thought and various ideologies. Secondly, in a two-party system the ruling party almost invariably has a majority in the Legislature and as a result it is never in danger of quitting. In the circumstances, it tends to amass undue power and become arbitrary. A two-party system paves the way to the dictatorship of the cabinet.

5.13. Multi-Party System

In a multi-party system, a number of parties send representatives to the Legislature. Many parties in such a system take part in the elections. The people choose their representatives from among the members of different parties. In many modern states this multi-party system is noticeable. There are nearly 15 political parties in France. In India there are five recognized big all-India parties but there are many more none-too-big ones. In the developing countries more parties than two are seen at the initial experimental stage of the party system. Then gradually, as the initial fidgetiness is got over, the smallest parties droop away and two or three big parties emerge.

Merits of multi-party system

Of the merits of the multi-party system the first is that it allows differences of principles and opinions to get expression through different political parties. It is possible for public opinion to be reflected correctly.

The modern society is a collection of various classes. One party or two cannot properly represent all the various classes that exist in a country. If there are number of parties in a country, all the social classes may have their interests represented. Moreover, in a multi-party system the Legislature become properly representative of the people's will. In such a system there are as many alternatives before the electors as there are parties. The people can use their discretion and choice and select their representatives accordingly. Finally, in a multi-party system any one party may not attain absolute majority and this will curb the undue predominance of any one party. The coalition government that is formed in such an eventuality offers chances for the lesser parties to have a share in the government. The Cabinet having the support of a number of parties can be more faithful to public will than the one having support of one party only.

Defects of multi-party system

The defects of the multi-party system are not far to seek. Firstly, in a multi-party system the running of the government becomes a practical impossibility. As Laski says, "it is fatal to government as a practical art." Ordinarily, no one party has the majority because votes are awfully divided. As a result, no powerful and

stable ministry is possible. The coalition government that is formed by different parties becomes a hotbed of disunity and intolerance. There is hardly the cohesion and integration that are needed for any stable government. The ministry, because it has no co-ordination, may break down any moment. Because the ministry is formed by different parties, there is a considerable delay in implementing government programmes. No quick decision is possible in these cases.

Secondly, coalition ministries are formed and broken rather frequently. This weakens the administration very much. At one time France experienced a coalition government every month. For, before the establishment of the Fifth Republic there were many parties in France. And no single party ever attained an absolute majority and coalition governments resulted. In the circumstances, no stable policy with regard to foreign or home affairs was possible. Thirdly, it has been pointed out by some critics that the voters are at a loss as to whom to support. If there are quite a good number of parties, the voters will find it difficult to choose their representatives. Hence bi-party system is favoured for its simplicity and effectiveness.

Two-party system vs. Multi-party system

The existence of Political parties is considered indispensable for democracy. But there is no agreement among critics about whether there should be two parties or more. Some states have a two-party system, while others a multi-party system. In Britain and America, the celebrated centres of western liberal democracy, we notice a two-party system. On the other hand, in India, the largest democracy in the world, and in France and Italy, there is a multi-party system. We have enumerated and discussed the merits and defects of both the systems.

We now can say by way of conclusion that it is not possible to say for certain which is better. In Britain and America the two-party system has developed into a successful system. It is not possible to introduce a multi-party system there. And even if it is done, it will soon transform itself into two-party system. In Britain, for example, there are a few small parties but they are ineffective and virtually a two-party system has developed there. Similarly, in India's social, economic and political predicament it is only natural that more parties than two would emerge. Attempts have been made

time and again to unify them and evolve a two-party system. But such attempts have fallen through. So whether there will be two parties in a country or more depends on the social and economic conditions of that country.

5.14. Classification of Multi-Party Systems

Different political scientists have attempted to classify the multi-party system. G.A. Almond in his *A functional Approach to Comparative Politics* classifies multi-party system under three heads :

1. Working multi-party systems
2. Unstable multi-party systems
3. Dominant party systems

Alan Ball in his *Modern Politics and Government* also follows this classification though he admits that any system of classification will lack precision. In the second edition of his book (published in 1978) he has, however, omitted this classification of multi-party systems on the plea to 'offer a less dogmatic approach'. The types of multi-party system as elaborated by Almond and Alan Ball are discussed below.

1. Working multi-party systems

The political system where more than two political parties actually exist although behaving like a bi-party system specially in regard to the stability of governments may be termed as *Working multi-party system*. Sweden and Norway are examples of this type. Both Sweden and Norway have Social Democratic parties opposed by several other right-of-centre parties, such as Liberals, Farmers, Conservatives and Christian parties. As in the bi-party system here in both the countries either the Social Democratic Party gets a working Parliamentary majority or the coalition of the right-of-centre parties. Both, however, when in power offer a stable government.

2. Unstable multi-party systems

Unstable multi-party system emerges from the working of several small and weak parties in the political system. This type of multi-party system generally lacks the stability of government. Unstable multi-party system exists in Italy and France. They have different political parties—right, centre and left. In Italy there are at least eight political parties represented in the Parliament, but

since the last War none has been able to secure a majority in the Parliament. As a result since 1947 Italy always gets coalition governments which last nine months each on an average.

3. *Dominant party system.*

The multi-party systems where party competition is allowed but one particular party always emerges with absolute majority in the parliament overshadowing all other parties are known as *Dominant party systems*. India is the best example of the dominant party system. From independence up to 1977 the National Congress enjoyed monopoly and formed Government in the Centre. A set-back was, however, suffered by Congress in the Parliamentary elections of 1977. The Congress again restored its position within three years. In the political process other parties exist in India and they are allowed to compete with the dominant party, and even come to power in may Indian States. But the dominant position of the Congress at the Centre has always been maintained. Malaya and Mexico also offers dominant party systems. Alan Ball, however, thinks that dominant party systems are often transitory.

5.15. Importance of Political Parties in a Democracy

We have seen that political parties are indispensable for democracy. Parties are the pivot round which democracy turns. Finer has said correctly that democracy "rests in its hopes and doubts upon the party system. There is the political centre of gravity." Democracy declares that the people have the full right to freedom of opinion, of expression, and to organize themselves in any party they may choose. The fundamental principle that underlies democracy is "hospitality to plurality of ideas."

(1) Every school of thought, every ideology and every interest finds its medium of expression in a party. A political party is formed on the basis of a particular ideology; it organizes under its banner people who share the same ideology. Had there been no parties the people would have remained just a huge number of mutually unknown, unintegrated individuals. The parties make them socially known and socially acceptable and tolerable.

(2) Democracy is a rule by public opinion. This public opinion needs to be formed and organized. There must be some

sort of an agency that would extract the essence of public opinion. And surely, the political party is a reasonably good agency. As Lowell says, the chief importance of political parties lies in "bringing public opinion to a focus and forming issues for the popular verdict". The political party brings order out of the chaos of a great number of voters. Taking and assimilating the opinions of a country's innumerable people, the political parties bring them to bear on the government. MacIver says that "it is the agency by which public opinion is translated into public policy."

(3) Democracy has for its goals national unity and welfare. It is not possible to attain these goals without the help of political parties. There are certain dangers in the society which threaten to harm national unity. Some of these are regionalism, communalism and contradictory economic interests. The political parties try to strike a balance among them and to minimize the chances of conflict. They cannot remove the causes of conflict, but they blunt the sharpness of conflict. In the words of Finer, "they gather by the whole nation into fellowships, and they lead, in the sense of bringing to the individual citizen a vision of the whole nation, otherwise distant in history, territory and futurity."

(4) The political parties educate the people. They bring the political topics of debate to the open street, so to say, and make the people politically conscious. The campaigns of a political party activate electors and rouse interest in them. Bryce puts it beautifully, "Party strife is a sort of education for those willing to receive instruction, and something soaks through even into the less interested or thoughtful electors. The parties keep a nation's mind alive as the rise and fall of the sweeping tide freshens the water of long ocean inlets."

(5) The superiority of democracy to other forms of government lies in the fact that the government is responsible to the people. Democracy regards criticism and opposition as lawful and useful to political activities. Political parties keep the government responsible to the people. The opposition parties not only criticise the government's policies; they co-operate with the government also. They are the watchdogs of popular rights. They find out the loopholes of the government's policies and make them public. This makes the government careful and behave responsibly. The government cannot become arbitrary. In a party system the ruling party

and the opposition parties have governmental power by turns. So power is not concentrate in any one centre. One party in administration and the others in healthy opposition to it—this makes the government responsible and democratic.

Finally, we should not lose sight of the immense importance of parties in a parliamentary form of government. In a parliamentary system, real power is vested in a Council of Ministers that is accountable and responsible to the Legislature. The ministers are the members of the majority party. This party remains in government so long as it enjoys the confidence of the Legislature. So the party is always alert so as not to lose the confidence of the Legislature. If the party is disciplined and unified, its members vote in the Legislature in complete compliance with the party's mandate. So parliamentary democracy is a myth without the party system. As Lord Bryce says, "if there were no party voting and every body gave his vote in accordance with his own, perhaps crude and ill-informed opinions, parliamentary government of the English type could not go on."

Exercise

1. What is meant by Public Opinion ? How is it formed and expressed ? Discuss its importance in a Democracy. (5.1 and 5.2) [H.S.C. '78]
2. What are the chief agencies that mould Public Opinion ? Discuss the strength and limitations of those agencies. (5.3)
3. Describe the different organs of Public Opinion in a modern Democracy. (5.3) [H. S. C. '82]
4. How does Public Opinion influence popular Government and Legislation ? (10.2)
5. What is Public Opinion ? Discuss the importance of Public Opinion in a Democracy. (5.1 and 5.2) [H. S. C. '80, '82, '84]
7. What is a Political party ? Discuss the functions of Political Parties. (5.4 and 5.6)
7. What is meant by the term 'Political Party' ? Explain the importance of Party System in Democracy. (5.4 and 5.6) [H. S. C. '83]
8. Discuss the advantages and disadvantages of the Party System. How can the defects of the Party System be remedied ? (5.7 and 5.9)
9. Discuss the conditions for the success of Party System. Do the conditions obtained in India ? (5.8)
10. What is One-Party System ? Discuss merits and demerits of such a system. (5.10)
11. Is one-Party rule against Democracy ? Explain with arguments. (5.11)

12. Discuss the relative merits and demerits of Two-Party System and Multi-Party System. Which of them you like and why? (5.13) [H. S. C. '79]
13. Discuss Two-Party versus Multi-Party System. (5.12)
14. Make a comparative estimate of the merits and the demerits of Bi-Party and Multi-Party Systems. (5.13) [H. S. C. '82]
15. Discuss the role and importance of Party System in a Democracy. (5.15) [H. S. C. '78, '85]
16. What do you understand by the term 'Political Party'? Explain the importance of political party in a Democracy. (5.4 and 5.15) [H. S. C. '81]
17. Discuss the different types of Multi-Party Systems. (5.15)
18. Write a note on Dominant Party System. (5.15)
19. Discuss the relative advantage of Bi-party and Multi-Party systems. (5.13) [H. S. C. '84]

Objective-type Questions

Tick the correct answers in the brackets :

1. One of the agencies for the formation of Public Opinion is the (State, Government, *Political Parties*).
2. (*Marxists*, Idealists, Individualists) consider Political Parties representatives of class interests.
3. There is (one-party, two-party, *multi-party*) system in India.
4. In the opinion of western scholars democracy cannot be successful in (*one-party*, two-party) system.
5. Two-party system can be seen in (*Great Britain*, the Soviet Union). [H. S. C. '81]
6. In India there exists (one-party system, bi-party system, *multi-party system*). [H. S. C. '81, '83]
7. India is an example of (working multi-party system, unstable multi-party system, *Dominant party system*).

"The electorate is not only the body of citizens which in most democratic states determines in the last analysis the form of government of the state and chooses those who guide and direct its affairs, but in modern democracies, it has, ... acquired the character of an organ of government itself."

—Dr. Garner

CHAPTER SIX

Representation and Suffrage

6.1. What is Representation ?

Suffrage and Representation are inextricably linked with the democratic system of government. If it is a direct democracy the question of representation does not arise, but if it is indirect, suffrage and representation are highly important questions and need to be discussed. The modern age is an age of indirect democracy. In modern indirect democracy the chief method translating its principles into practice is the organization of the electorate and sending representatives to the Legislature.

In dictatorship there is no big problem of the organization of the electorate or of representation ; these problems crop up in the democratic states only. In a democracy sovereignty resides in the people. The people send their representatives to the Legislature and hand the sovereign power over to them. Elections mean voting and sending representatives. This ensures democracy. That is why one of the means of making democracy real and successful is the exten-

sion of suffrage or franchise. It has now-a-days been admitted on all hands that in a democratic state all adult citizens should have the right to vote.

The awaking of political consciousness among the people has compelled modern governments to introduce laws that serve the interests of the people. In the direct democracy of the ancient city-states the citizens had a direct share in the making and execution of laws. Such direct participation of the citizens in the government has become impossible in the large modern states. It has, therefore, been decided that some representatives of the people may be elected for a certain term. These representatives will properly convey the people's opinions, sentiments and ideas to the Legislature. The people themselves elect these representatives and so they are bound to accept what their representatives do. This is known as Representation.¹

The chief point about representation is that it makes the government responsible. For this reason, clearly, the other name of the Representative Government is Responsible Government. The purpose of representation is bringing public opinion to bear on the government so that it can learn to respect the people's will. Thus, in other words, representation makes the government responsible and cautious². The representatives are responsible for their actions to the electors ; in this way the government is responsible to the people of the entire country. On the other hand, the people remain bound to keep the laws which their representatives make. For, seen in a round about way the laws are of their own making.

6.2. Theories of the Nature of the Suffrage

Those who vote their representatives of the Legislature collec-

1. "Representation is the process through which the influence which the entire citizenry or a part of them have upon governmental action is, with their express approval, exercised on their behalf by a smaller number among them with binding effect upon those represented."

—Friedrich, *Constitutional Government and Democracy*.

2. "Delegation involves the choice of men, but representation involves the choice of measures. Delegation in its completest form . . . assigns no limitation of tenure and no conditions of the exercise of power. Representation implies both direction and control. Delegation requires the consent of the governed, whereas representation requires the fulfilment of their will."

—MacIver, *The Modern State*.

tively form the Electorate. There are certain theories regarding the nature of the right of the citizens to vote.

A. *The Theory of Natural Rights*

According to this theory citizen's right to vote is a natural right and is inalienable. The theory of contract says that before the emergence of the state men lived freely in the *state of nature*. Their actions and behaviour were regulated by the laws of nature. So when they formed the state by means of a contract among themselves, it is natural that they would have a share in the government of the state. So taking part in the government indirectly, i.e., in sending representatives, is an ancient right. The modern scholars, however, do not accept this view. They do not regard suffrage or the right to vote as a gift of nature. It is, in their opinion, rather the creation of the state. As Gettell says, "The fallacy in this theory results from confusing the ethical and the legal concept of law and rights. Only those possess the right to vote, in the legal sense, upon whom the State has conferred such right by law."

B. *The Legal Theory*

This theory states that the right to vote is not a natural right. It is a sort of political right. The state has conferred this right by law. According to this theory the electors are regarded as an important part of the government of a state. Voting, similarly, is regarded as a part of the state's activity. It is an important element of the government of the state. That is why the composition and functions of the electorate are determined by law. Who will vote and how is not an ethical point. It is a political matter and is determined by considerations of necessity, usefulness and feasibility.

C. *The Ethical Theory*

This theory considers the right to vote a means for the development of the individual's self. By expressing his view on political matters the individual tries to develop his personality. So co-operation and association with the government release a person from his narrow bound and enable him to give a better account of himself.

D. *The Tribal Theory*

At one time in the ancient period citizenship was limited among the tribals of Greece, Rome and Germany. The state did not

recognize as citizens any person outside the pale of these tribes. Obviously, suffrage, too, was restricted among the tribals only. So the modern view that only the citizens should have the right to vote is but a remnant of this old Tribal Theory.

E. The Feudal Theory

There grew towards the end of the Middle Ages a notion that only those having social pedigree should have the right to vote. Ordinarily the right to vote was conferred on those who owned considerable landed property. In some states property is still the condition for voting rights.

Among these theories the Feudal and the Legal theories seek to impose certain restrictions on the franchise. But the modern times are marked by a tendency to regard as absolutely necessary the extension of the franchise to the maximum number of citizens. According to Garner, most modern scholars regard the suffrage or franchise not as a natural but as a political right.¹

The critics are, however, not unanimous about whether it is a moral duty of the citizens to vote or a legal obligation. Some say that to fully ascertain the will of the electorate it is necessary to make franchise compulsory. On the other hand, it may be argued that if the suffrage is recognized as a political right of the citizen, it then follows that he may or may not exercise that right, that it cannot be binding. Only a few states have made suffrage obligatory. Among these states are Belgium, Rumania and Argentina. Some critics believe that compulsory suffrage lowers the standard of the citizens' political life and turns them into opponents of the government. As a scholar says, "a man has a right not to use a right and is not obliged to be interested in political issues; he may be short-sighted and foolish and cannot complain if things does not go accordingly to his wishes, but voting is his own business—that is his democratic freedom".²

1. "The view which practically all writers on political science adopt today in regard to the nature of suffrage is that it is an office or function which is conferred by the state upon only such persons as are believed to be most capable of exercising it for the public good and not a natural right which belongs without distinction to all citizens of the State".

—Garner, *Political Science and Government*.

2. Soltan, *An Introduction to Politics*.

6.3. Universal Adult Suffrage

There have been many revolutions and profuse shedding of blood in history for the cause of suffrage. In the past, only a few people had the right to vote. And gradually there has been an extension of the right to vote. More people are exercising it now-a-days. As Victor Hugo says, "Adult Suffrage has crowned man as the citizen." The extension of the suffrage as a modern phenomenon started in the nineteenth century. As Garner puts it, "the most remarkable phenomenon in the history of democracy in the past century has been the steady evolution of the suffrage from a narrow, frequently unequal and indirect system to one which is now virtually universal, direct and equal." The restrictions of sex, religion and race have disappeared one after another before the heavy, titanic wave of democracy. Unquestionably, democracy has gained more strength in the present century and naturally there has been a greater extension of the democratic rights too. And yet it has not been possible to establish suffrage in all the countries.

Whether universal adult suffrage is acceptable or not was once a subject of hot controversy among scholars. When all adult citizens are granted the right to vote, irrespective of sex, race or class the system is known as universal adult suffrage. Now-a-days it is admitted that franchise should be based on universal adult suffrage. Nobody disputes that insanes, minors, insolvents and convicts should have no right to vote. But the point is whether all others should or should not have franchise. Some are against putting any restrictions on normal adult people, while others think that even all adult men and women cannot be allowed to exercise the franchise. These critics wish that franchise should depend on educational qualifications, property and sex.

John Stuart Mill was of the opinion that property and education should be the two most important basis of enfranchisement. Of these he regarded education as more important. To quote him "universal teaching must precede universal enfranchisement." Those

Education and
Property as criteria
for franchise—
Mill's view.

who have properties are responsible citizens. Because they inflate the government treasury by paying taxes, they alone are entitled to determine the income and expenditure and general policies of the government. So Mill

wants to restrict franchise to the educated and propertied classes

only. But this view has come in for heavy criticism. It has been said that ownership of property is not a standard of judging one's eligibility or qualities; moreover, the intelligence and tact that are needed for the sensible exercise of the franchise have no connection whatsoever with education.

So the demand arose for allowing every adult person to exercise the right to vote. This demand is known as the demand for universal adult suffrage. In the eighteenth century scholars like Locke and Rousseau raised this demand on grounds of natural right, welfare, development of individuality and democratic right.

Arguments for universal adult suffrage

First, democracy means sovereignty of the people. So, everybody should have the right to vote irrespective of race, religion and caste, sex, education and wealth. Rousseau has said that sovereignty resides in the people; so every person has the right to have a share in the government. Right to vote is a corollary of it.

Secondly, the laws of the government touch everybody equally. So everybody should have the right to vote. "What touches all must be decided by all." And it is by exercising the right to elect representatives that the ordinary people can exert their influence on the framing of laws and all that.

Thirdly, if suffrage is limited to a class or group, then the government will be run virtually in the interest of that class. In other words, in such a case government will become an instrument of a class. Limited franchise will mean limited electorate and this limited electorate cannot surely be expected to act in the interest of the entire population. It is apprehended and not without reason that the people who are deprived of the right to vote will not enjoy all the benefits and privileges that the government may allow. As Laski says, "exclusion from power means exclusion from the benefits of power." History is replete with instances where a people deprived of political rights had their interests disregarded also.

Fourthly, it is through the universal franchise that the capabilities of the citizens and their individuality are best developed. Man's self-respect and sense of dignity develop if he participates in important social and political activities. He will start thinking in political terms if he has the franchise. So universal franchise is indispensable in rousing the political consciousness of the people.

Finally, democracy has no meaning if it does not establish political equality. And political equality can be ensured by enfranchising all adult members of state.

Arguments against Universal Suffrage

Scholars like Bluntschli, Henry Maine, Macaulay and Lecky are not prepared to accept these arguments. They have brought forward their own arguments against universal suffrage. In the first place, Macaulay, Lecky and Sir Henry Maine think that it is unwise and dangerous to allow the uneducated people to have the right to vote. Macaulay's invective against universal suffrage may be recalled—'a few half-naked fisherman would divide with the owls and foxes the ruins of the greatest European cities'.

Lecky has opposed universal suffrage in his book *Democracy and Liberty*. He says that progress is never possible if we allow the uneducated, ignorant people to share in the government of the country. He says that the theory that the 'ultimate source of power should belong to the poorest, the most ignorant, the most incapable, who are necessarily the most numerous, is a theory which assuredly reverses all the past experiences of mankind'.

Sir Henry Maine apprehends that universal suffrage will stand in the way of progress of science. In his opinion it is fortunate for us that the chief scientific inventions were made before the introduction of universal suffrage. As he says, "universal suffrage which today excludes free trade from the United States would certainly prohibit the spinning jenny and the loom."

This view is a little farfetched and exaggerated. We have no evidence that universal suffrage has ever impeded a country's progress. And yet the view expresses an undeniable truth : before allowing the people to have a share in the government, they must be educated and made capable. We cannot altogether ignore John Stuart Mill's prescription that "universal education must precede universal enfranchisement."

Secondly, there are many scholars who think that franchises should be confined among those who have a specified measure of property and who pay taxes to the state. There are two main reasons for this : (a) a propertied man is usually regarded as being tolerably educated ; (b) the people who do not have property do not ordinarily pay taxes. And those who do not pay taxes should have no role in conducting the affairs of the state. As Mill says,

'those who pay no taxes, disposing by their votes of other people's money, have every motive to be lavish and none to economise. The voting by those who do not themselves contribute taxes is a violation of the fundamental principle of free government; representation should be co-extensive with taxation.' Mill says that if government is run by those who do not pay taxes, they will not then be frugal and will not try to cut down expenditure.

It should be pointed out that this theory is basically reactionary. Because of the existence of classes in the society it is not possible for all to acquire property. So according to this theory only the rich classes should have political power. As Laski says, 'the legal order is a mask behind which a dominant economic interest secures the benefit of political authority.' The argument that tax payers should be eligible is however a powerful one. But it is the duty of the state to make sure that all men have the capability to pay taxes. So before restricting franchise, the economic condition must be improved.

Thirdly, we have already seen that some scholars speak for restricting franchise to the educated citizens only. Of these scholars J. S. Mill is one. Mill says that, "I regard it as wholly inadmissible that any person should participate in the suffrage without being able to read and write and I will add, perform the common operations of arithmetic."

It has been said in criticism of Mill's view that political sense does not depend on academic attainments. In politics, as Graham Wallas has said, the behaviour of the individual is guided by intuitions, passions and desires, which have no relation with school and college education. Political consciousness and experience build the voter's outlook. So there is no point in depriving him of voting right simply because he has no education.

Fourthly, some think that it is no use giving women the right to vote. For, they are apolitical, less capable than men and are easily influenced by them: they cannot, ordinarily, serve the army. John Stuart Mill however, is a very powerful exponent of franchise for women. He has demolished the above arguments and has said that women are neither apolitical nor incapable. They have been directly kept outside the pale of politics.

In most of states universal suffrage is now a recognized principle. Yet certain exclusions required by positive reasons have been

adopted by all the states. Nobody will perhaps dispute that minors, insanes, idiots and insolvents should not have the right to vote. Moreover, in democratic states soldiers serving in the battle front and men holding certain posts are not given the right to vote.

6.4. Women Suffrage

Even when the demand for universal adult suffrage was accepted, the question still was raised whether it was advisable to allow women to have the right to vote. Some scholars and critics wished to count women out and consider the suffrage for all male adults. It is unfortunate that we have to pause at all and discuss the question of women suffrage. It is all the more disgraceful that even in Switzerland, the sanctimonious centre of democracy, women had no voting right even a few years ago. Women suffrage was recognized in Switzerland some time ago.

Arguments against

We first enumerate the arguments of those who vehemently opposed women suffrage.

Firstly, women are inferior to men in intelligence, creativity and education and cannot make their influence felt in politics. They cannot bring any change in the political life of a nation. Secondly, women are naturally apolitical and hardly have anything to say about politics. Thirdly, even if women get franchise they cannot exercise this right independently. They are sufficiently briefed and informed by the menfolk. Fourthly, it is also said that only those should have franchise who can lay down their lives for their country. As women are of a weak and frail physical make, they need have no role in saving the country. So no question of their having the franchise arises.

Arguments for

On the other hand, some very highly educated and capable women of England and America have fought for woman suffrage for quite a long time. Some famous scholars too have fought shoulder to shoulder with these women. John Stuart Mill was an outstanding exponent of women suffrage. He says that we cannot say that women are intellectually inferior to men. Their comparatively short stature and other physical frailties should not lead us to think that they are incapable of any high attainments. Moreover, voting is not a very highly intellectual operation.

Secondly, the policies and activities of the government touch women as much as they touch men. So women should have the right to elect representatives to the Legislature. As Mill puts it. "Men as well as women need political rights not in order that they may govern, but in order they may not be misgoverned."

Thirdly, there are many instances of women taking care of their properties, paying taxes and conducting business even. In almost all walks of life, women have been proving to be themselves equal to men. To dub women as inferior to men is nothing but a meaningless advertisement of men's ego. Women today are climbing mountains; they are making for the moon in rockets. Some countries have women Prime Ministers. So women have shown their worth and so it will be sheer impudence to say that they would not be able to make the proper use of their franchise.

Fourthly, women are sometimes influenced by men, no doubt, but sometimes, again, men too bank on the suggestions and advices of women. If we deprive women of suffrage for this reason, one should then deprive some men also of it.

Fifthly, we must make it a point to make women politically conscious. Even if they initially show any unwillingness to have any itch for politics, they must be initiated into politics for the good of humanity. It has been aptly said that "it is a benefit to human beings to take off their fetters even if they do not desire to walk."

Finally, it is possible for women to serve the country even without joining the army. In Mill's view it is for men's selfishness or inveterate prejudice that they are opposing women suffrage. He says that just as nobody can be made responsible for the complexion he or she bears so nobody can be made responsible for his sex. Mill has, therefore, hoped that before the lapse of another generation, the accident of sex, no more than the accident of skin, will not be deemed a sufficient justification for depriving its possessor of the equal protection and just privileges of a citizen.

Conclusion

There can be no point in debating whether women should have suffrage or not. Women suffrage is a must in modern times. Women must be allowed to vote as men are. Suffrage is a political right and there is no reason why women should be debarred from it. Men and women have had equal share in our struggles for rights

and in whatever values we have reared. It is unjust to relegate women to an insignificant position. As the Bengali poet Nazrul Islam said so nicely, men women partook equally of whatever good mankind has achieved.

6.5. Importance and Implications of the Right to Vote

The right to vote is the most important right in democracy. Hence it is one of the most important duties of the citizens to vote conscientiously. The voter must acquire the right to vote and must have this capability to exercise this right. Those who do not have this capability should not have this right. This is the reason why minors, insolvents, insanes, and convicts are not allowed this right in any modern state.

The state's sovereignty rests on public opinion. And universal suffrage is the chief way of ascertaining public opinion. Through the exercise of voting right the people can actively participate in the government. Democratic administration is based on popular consent. This consent is expressed through the representatives whom they elect. So without the right to vote democracy becomes shorn of its meaning.

The right to vote is a safeguard against the arbitrariness of the government and against any attempt to curb individual liberty. By making good use of the right to vote the people can remove an irresponsible and worthless government and set up a new one. In exercising the right to vote the citizens' prime consideration should be the good of the country. Only those candidates should be voted who are likely to serve the country best. Nobody should vote for personal interests, on the spur of the moment, or out of fear. If anybody does so, he will not be legally punishable but will outrage his own conscience and will stand condemned as an irresponsible voter. A responsible citizen should assess the candidacy of each candidate and vote for the best. The success of democracy depends a great deal on the just and responsible exercise of the right to vote.

Many people have an idea that voting is a very easy matter. You vote for any candidate and the business is over. But the matter is not that easy. The right to vote has a deep meaning and importance. It is by electing capable and sensible representatives that the edifice of democratic government can be founded. Democracy is said to be a "government of the people, by the people and

for the people." The truth of this remark depends on the conscientious exercise of the right to vote. In modern large democracies it is not possible for all the people to rule directly as the citizens of ancient Greek city-states did. So in indirect democracy the people elect their representatives who express the voters' will and aspirations in the Legislature. These representatives have a share in the government of the state. The people who vote for these representatives thus have their share too, although indirectly.

Through the ballot the voter can express his opinion on various questions. Who will wield governmental power? What laws should be introduced and what laws should be annulled? What economic and social measures should be introduced? The citizen can express his opinion about all these questions. It is generally admitted now-a-days that sovereignty resides in the citizens. And States and the Union and some of whom become the members of the right to vote. Rousseau's General Will finds expression through suffrage.

6.6. Universal Suffrage in India

In a democratic form of government representatives elected by the people conduct the affairs of the government. In India these people's representatives are the members of different Legislatures of both the States and the Union and some of whom become the members of the Council of Ministers. In India all adult citizens have been given the suffrage irrespective of caste, creed and sex.

In India the following are the qualifications and disqualifications for suffrage : (1) a voter must be a citizen of India ; (2) he or she must be of 21 years of age ; (3) anybody who is an insane or an insolvent or is found guilty of and convicted for an offence will not have the voting right ; (4) the voter of a constituency should ordinarily be a resident of that area.

In this connection we should recall the qualifications of candidates for the membership of the Union Parliament or of the State Legislatures. Candidate for the Lok Sabha or the State Assembly must be of 25 years of age. The minimum age for candidates for membership of the Council of States or of the State Legislative Council is 30. A candidate for the post of the President of India must have attained the age of 35.

In India a general election is held every five years. All voters

of the country cast their votes to elect their representatives to the Union Legislature and State Legislatures. Election is held simultaneously throughout the country. If any seat falls vacant midway owing to the death of member or for any other reason, there will be a by-election for that seat. All voters taken together are known as the electorate. For the election of representatives the country is divided into several constituencies or election areas. Every such area or constituency can send a specified number of representatives.

Constituencies are divided and the electoral rolls are prepared on the basis of the census which is held every ten years. For the House of the people or the Lok Sabha there shall be one number for every 7,20,000 people; and for the State Assembly there shall be one member for every 75,000 people. This is ordinarily the method of preparing the Constituencies. Seats are kept in reserve for the Scheduled Castes or Tribes and none but the member of the Scheduled Castes and Tribes can contest for these seats. The constitution provided that there would not be any reserved seat after ten years from the commencement of the constitution. Of course, this period has now been extended. If the President thinks that there is no adequate representation of the Anglo-Indian Community in the Lok Sabha, he can then nominate two persons representing that community.

The list of the names of voters for each constituency is called the voter's list or the electoral roll. Nobody whose name does not appear in the list will be able to vote. Every voter will have the right to vote for candidates for both the Lok Sabha and the State Assembly. He can also, if he has the requisite eligibility, be a voter for the graduate constituency, teacher's constituency and local self-government constituency of the Legislative Council election—if, of course, there is any Council in that state. His name must not appear in more than one list for the same election. A person residing in Calcutta, for example, and having his name in the voter's list of one of the Calcutta constituencies for the Assembly election, cannot cast his vote in any other constituency.

After the preparation of the voter's list, candidates submit their nomination papers and on the specified date the Returning Officer examines whether the nomination papers are valid or not. Then the date and venues of polling or polling stations are communicated to the voters. The candidates can within a stipulated date withdraw their nomination papers. The constituency from which two members

are to be elected is called a double seated constituency. In such constituencies every voter will have two votes each. No voter can cast more than one vote for any one candidate.

Voters will on the day of polling turn up, at the polling centre and take their ballot papers from the Returning Officer. They will put a cross mark against the name of the candidate for whom they choose to vote. On a stipulated date the counting of votes will take place. If any candidate is found guilty of any illegal behaviour during the polling his candidacy will be cancelled. In some cases such persons are debarred from contesting elections for a few years.

The Constitution has provided for an *Election Commission* to organise and supervise the general elections in India. The Election Commission will determine constituencies, prepare voter's list, conduct the polling and will perform other associated functions. The President determines the number of members of this Commission and appoints a Chief Election Commissioner. In case of any dispute over any election, the Commission will if it feels it necessary, set up an election Tribunal to settle the dispute.

Exercise

1. What is Representation ? Discuss the various theories of Suffrage. (6.1 and 6.2)
2. Discuss the meaning of Universal Adult suffrage. Why is this system advocated ? (6.3) [H. S. C. '83]
3. Discuss the arguments for and against Universal Adult Suffrage. (6.3) [H. S. C. '78, 85]
4. Universal teaching must precede universal enfranchisement.—Discuss. (6.3)
5. Discuss the arguments for and against Women Suffrage. (6.4) [H. S. C. '79]
6. Argue the case for and against Universal Adult Suffrage. (6.3) [H. S. C. '81]
7. Write a short note on Universal Adult Suffrage. (6.3) [T. S. B. '82]

Objective-type questions

1. What are the two criteria for franchise according to J. S. Mill ?
2. Is there universal suffrage or limited suffrage in India ?
3. Which organization supervises the general elections in India ? [H. S. C. '79]
4. What is the minimum age for a voter in India ?
5. Universal Adult suffrage is (unnecessary, absolutely necessary) for the success of representative Democracy. [H. S. C. '84]

W. B. HIGHER SECONDARY EXAMINATION

Political Science

1980

First Paper

Group A (Answer any four questions)

1. Define Political Science. How is it related to Sociology?
2. Discuss the characteristics of the State.
3. State the Theory of Force as an explanation of the origin of the State. Do you find any element of value in it? Give reasons in favour of your answer.
4. What is meant by the right of nations to self-determination? What are the arguments advanced against this doctrine?
5. Discuss the composition and functions of the General Assembly of the United Nations. Evaluate the role of the General Assembly.
6. Describe the Directive Principles of State Policy set forth in the Constitution of India. Indicate the difference between Fundamental Rights and Directive Principles.

Group B (Discuss briefly any two questions)

7. What are the characteristics of Sovereignty?
8. Discuss the different methods of acquiring citizenship.
9. Describe the composition and functions of the Trusteeship Council.
10. Discuss the correlation between Rights and Duties.

Group C

11. Choose the correct answer from the alternatives given within the brackets:

- (a) A person can simultaneously be a member of more than one (State, Association).
- (b) (Hobbes, Locke, Rousseau) is the author of *the Social Contract*.
- (c) (All the members, only temporary members, only permanent members) of the Security Council have the right to exercise 'veto'.
- (d) Right to work is a (political, economic) right.
- (e) In the Constitution of India at present the right to property is (a fundamental right, not a fundamental right).

Second Paper

Group A (Answer any four questions)

1. Define Constitution. How would you classify constitutions?
2. Explain the chief features of a Federation and discuss its merits and demerits.
3. Define Dictatorship and analyse its merits and demerits.
4. Explain the theory of Separation of Powers. 'Rigid separation of powers is neither possible nor desirable.' Discuss this statement with illustrations.

5. Discuss the powers and position of the Prime Minister of India.
6. What is meant by Public Opinion? Indicate its importance in a democracy.

Group B (Answer any two questions)

7. What is meant by Direct Democracy? Analyse the merits and demerits of Direct Democracy.
8. What is meant by Single Executive and Plural Executive?
9. Describe in brief the Emergency Powers of the President of India.
10. Write what you know about the relation between the Lok Sabha and the Rajya Sabha.

Group C

11. Choose the correct answer and rewrite the whole sentence with the correct answer in each case :
 - (a) The Government of India is
 - (i) federal, (ii) unitary, (iii) quasi-federal.
 - (b) The Chief Minister of a State is appointed by
 - (i) The Governor of the State concerned, (ii) The President of India, (iii) The Prime Minister of India,
 - (c) The State Legislature in West Bengal is
 - (i) unicameral, (ii) bicameral.
 - (d) In India there exists
 - (i) one-party system, (ii) bi-party system, (iii) multi-party system.
 - (e) Universal adult suffrage is
 - (i) unnecessary, (ii) absolutely necessary for the success of representative democracy.

1981

First Paper

Group A (Answer any four questions)

1. Discuss the subject-matter of Political Science. Is Political Science a science?
 2. Define the 'State'. Discuss the importance of sovereignty as an element of the state.
 3. Analyse the Evolutionary Theory as to the origin of the State. Do you accept this theory?
 4. What are the elements of nationality? Is India a nation?
 5. Discuss the Objectives and Principles of the United Nations. Has it failed in its purposes?
- Or, Define Law. Point out the relation between law and liberty.*
6. What is meant by political and economic rights? Enumerate some of the political rights incorporated in the Indian Constitution.

Group B (Discuss briefly any two questions)

7. Point out the limitations of the Social Contract Theory regarding the Origin of the State.
8. Discuss the relationship between nationalism and internationalism.
9. Explain the differences between the State and other social associations.
10. What are the causes for the loss of citizenship ?

Group C

11. Choose the correct answer from the alternatives given within the brackets :
 - (a) Sovereignty is (transferable, non-transferable).
 - (b) The Divine Origin Theory of the State is (scientific, unscientific).
 - (c) At present the total membership of the Economic and Social Council is (15, 25, 27, 32).
 - (d) The Directive Principles of State Policy given in the Indian Constitution is (justiciable, non-justiciable).
 - (e) Right to vote is a (social, cultural, political, economic) right.

Second Paper

Group A (Answer any four questions)

1. Describe the salient features of the Indian Constitution.
2. Distinguish between Parliamentary and Presidential forms of Government. What are the advantages and disadvantages of the Parliamentary form of Government ?
3. Discuss in brief the composition and the functions of the Indian Parliament.
4. Discuss the powers and position of the Indian President.
5. What do you understand by the term 'political party' ? Explain the importance of the party system in a democracy.
6. Argue the case for and against Universal Adult Franchise.

Group B (Answer any two questions)

7. Can India be called a Republic ? Give reasons for your answers.
8. Briefly discuss the arguments for and against Bicameralism.
9. Describe the powers of the High Court in an Indian State.
10. Discuss the role of the Governor of a State under the Indian Constitution.

Group C

11. Choose the correct answer and rewrite the whole sentence with the correct answer in each case :
 - (a) The Rajya Sabha in India is
 - (i) a House of the States.
 - (ii) a House of the Governors.
 - (iii) a House of the Indian Parliament.

- (b) The Vice-President of India is
 - (i) a member of the Union Cabinet.
 - (ii) the Chairman of the Rajya Sabha.
 - (iii) the Speaker of the Lok Sabha.
- (c) The Supreme Court of India is a court with
 - (i) only original jurisdiction.
 - (ii) only appellate jurisdiction.
 - (iii) both original and appellate jurisdiction, but with no other type of jurisdiction.
 - (iv) original, appellate and advisory jurisdictions.
- (d) Under the present Indian Constitution 'Education' is included in
 - (i) the Union List.
 - (ii) the Concurrent List.
 - (iii) the State List.
- (e) The number of the constituent States of the Indian Union is
 - (i) 21.
 - (ii) 22.
 - (iii) 23.

1982

First Paper

Group A (Answer any four questions)

1. Discuss the relation of political science with history and economics.
2. Discuss the Theory of Force about the origin of the state.
3. Define sovereignty. What are the characteristics of sovereignty?
4. What is meant by the right of nations to self-determination? What are the arguments advanced against this doctrine?
5. Discuss the composition and the functions of the Security Council of the United Nations. Briefly evaluate the role of the Security Council.
6. Explain in brief any three Fundamental Rights guaranteed by the constitution of India.

Group B (Answer briefly any two questions)

7. Distinguish between a citizen and an alien.
8. Discuss the duties of citizens to the state.
9. Is nationalism opposed to internationalism? Give reasons for your answer.
10. Explain the significance of the Directive Principles of State Policy enumerated in the Constitution of India.

Group C

11. Choose the correct answers and re-write the sentences given below:
 - (a) (West Bengal, Bangladesh) is a state.
 - (b) The United Nations was established in (1919, 1942, 1945, 1947).
 - (c) Political Science is a branch of the (social, moral, physical) sciences.
 - (d) Right to property (is, is not) a fundamental right guaranteed by the Constitution of India at present.

- (e) According to the Historical Theory about the origin of the state, the state is (a creation of God, the result of a contract, a product of continuous development of human society).

Second Paper

Group A (Answer any four questions)

1. What is meant by the term 'constitution'? Explain with suitable examples the distinction between written and unwritten constitutions.
2. Discuss the nature of the Indian federation.
3. What are arguments advanced against the democratic form of government? What are the conditions essential for the success of democracy?
4. Explain the theory of Separation of Powers.
5. Describe the composition and the functions of the West Bengal State Legislature.
6. Describe the different organs of public opinion in a modern democracy.

Group B (Answer briefly any two questions)

7. Explain the law-making process in the Indian Parliament.
8. Make a comparative estimate of the merits and the demerits of bi-party and multi-party systems.
9. Explain how the President of India is elected.
10. Discuss the functions of the judiciary in a modern state.

Group C

11. Choose the correct answers and re-write the sentence given below :
 - (a) The Prime Minister of India is appointed by (the Supreme Court, the President, the Lok Sabha).
 - (b) India has a (presidential, parliamentary) form of government.
 - (c) The Lok Sabha is elected for (four, five, six) years.
 - (d) (India, Great Britain) is a Republic.
 - (e) In India general elections are conducted by (the Central Government, the State Governments, the Election Commission).

1983

First Paper

Group A (Answer any four questions)

1. Discuss the relation of political science with psychology and ethics.
2. Define the term 'State'. Analyse the essential characteristics of the State.
3. Explain the evolutionary theory of the origin of the State. Do you find any element of value in it? Justify your answer.

4. Should the boundaries of states coincide with those of nationalities? Give reasons for your answer.

5. Discuss the composition of the General Assembly of the United Nations. Evaluate the role of the General Assembly.

6. Describe in brief the Directive Principles of State Policy enumerated in the Indian Constitution. Indicate the difference between the Fundamental Rights and the Directive Principles.

Group B (Answer briefly any two questions)

7. Discuss the limitations of the social contract theory regarding the origin of the State.

8. Discuss the different methods of acquiring citizenship.

9. What is meant by Economic and Social Rights? Name some of the important economic and social rights.

10. Discuss the relationship between rights and duties.

Group C

11. Choose the correct answers and re-write the sentences given below :

(a) A person can simultaneously be a member of more than one (State, association).

(b) (Aristotle, Rousseau, Hegel, Marx, Green) said: "The State is an organ of class rule".

(c) Right of property is a (political, economic) right.

(d) Right to work (is, is not) a fundamental right guaranteed by the Constitution of India.

(e) The Trusteeship Council (is, is not) a part of the UNO.

Second Paper

Group A (Answer any four questions)

1. Describe the salient features of the Indian Constitution.

2. Describe the characteristics of a federal government. What are its advantages and disadvantages?

3. Distinguish between parliamentary and presidential forms of government. What are the advantages and disadvantages of the parliamentary form of government?

4. Discuss the position and the powers of the President of India.

5. Discuss in brief the functions of the Indian Parliament.

6. What is meant by the term 'political party'? Explain the importance of the party system in a democracy.

Group B (Answer briefly any two questions)

7. What is meant by direct democracy? Analyse the merits and the demerits of direct democracy.

8. How are the judges of the Supreme Court of India appointed? How can the judges be removed from office?

9. Discuss the role of the Governor of an Indian State.

10. Explain the meaning of universal adult suffrage. Why is this system advocated?

Group C

11. Choose the correct answers and re-write the sentences given below :
 - (a) Complete separation of powers (is, is not) feasible.
 - (b) India has a (one-party, bi-party, multi-party) system.
 - (c) India has (20, 22, 24) States.
 - (d) The Vice-President of India is (nominated by the President, indirectly elected, directly elected).
 - (e) The members of the Union Council of Ministers are appointed by the (President of India, Prime Minister, Lok Sabha).

1984

First Paper

Group A

1. What is the scope of political science ? Discuss the relation of political science with economics.
2. Discuss the theory of force about the origin of the State.
3. Define Sovereignty. What are the characteristics of Sovereignty.
4. What is meant by nationalism ? It is opposed to internationalism ?
5. Discuss in brief, the achievements and the failures of the United Nations.
6. Why is it necessary to enumerate the fundamental rights in a Constitution ? Discuss the characteristics of the Fundamental Rights guaranteed by the Constitution of India.

Group B

7. Analyse the difference between the State and other associations.
8. How far do you agree with the view that "the State, is the creation of God" ? Justify your answer.
9. Discuss the duties of citizens to the State.
10. Explain the significance of the Directive Principles of State Policy enumerated in the Constitution of India.

Group C

11. Choose the correct answers and re-write the sentences given below :
 - (a) (Hegel/Rousseau/Hobbes) is the author of the Social Contract.
 - (b) The International Court of Justice (is/is not) an organ of the United Nations.
 - (c) Right to work is (a political/an economic) right.
 - (d) The Constitution of India (does/does not) guarantee the right against exploitation.
 - (e) Under the Constitution of India the right to education is a (Fundamental Right/Directive Principle of State Policy).

Group A

1. Distinguish between rigid and flexible constitutions and discuss the merits and demerits of rigid constitution.
2. Examine the view that 'the Indian Constitution is partly Federal and partly Unitary.'
3. What do you understand by the term dictatorship? Discuss the merits and defects of dictatorship.
4. Explain the theory of Separation of Powers. Do you agree with the view that a rigid separation of powers is neither possible nor desirable? Give reasons for your Answer.
5. Examine the case for and against bi-cameralism.
6. Discuss the composition and the functions of the Supreme Court of India.

Group B

7. Describe how the President at India is elected.
8. Discuss the composition of the Rajya Sabha and the Lok Sabha.
9. What is meant by public opinion? What is its importance in a democracy?
10. Discuss the relative advantage of the biparty and the multi-party systems.

Group C

1. Choose the correct answers and re-write the sentences given below:
 - (a) A federation (is/is not) marked by the Supremacy of the Constitution.
 - (b) The U.S.A. has a (parliamentary/presidential) form of government.
 - (c) The President of India (is/is not) bound by the advice tendered by his Council of Ministers.
 - (d) The Chief Minister of an Indian State is appointed by the (President of India/Governor of the State/members of the State Legislature.)
 - (e) Universal adult suffrage is (Unnecessary/absolutely necessary) for the success of representative democracy.

1985

First Paper*Group A (Answer any four questions)*

1. Define Political Science. Can Political Science be regarded as a science? Give reasons for your answer.
2. Discuss the Evolutionary Theory about the origin of the state and make an evaluation of the theory.
3. What is the meaning of 'Nationality'? Discuss the essential elements that go to make a Nationality.
4. What is meant by citizenship? Describe the different ways in which citizenship can be acquired.

5. Discuss the purposes and principles of the United Nations. What are its principal organs ?

6. What is meant by the term 'Right' ? Enumerate the principal civil and political rights of a citizen in a modern state.

Group B (Answer briefly any two questions)

7. State at least *four* of the Fundamental Rights of the Indian citizen. How are the Fundamental Rights protected in the Indian Constitution ?

8. "Rights and Duties are correlative." Explain the statement.

9. State the reasons for which the Social Contract Theory regarding the origin of the state has been criticized.

10. Distinguish between legal sovereignty and political sovereignty.

Or

Bring out the distinction between state and government.

Group C

11. Choose the correct answers and rewrite accordingly the sentences given below :

- Right to vote is a (social/political/civil/economic) right.
- Right to property (is/is not) a fundamental right guaranteed at present by the Constitution of India.
- Sovereignty of the state is (transferable/non-transferable).
- The Directive Principles of State Policy enumerated in the Indian Constitution are (justiciable/non-justiciable).
- In the Security Council of the United Nations (all member-states/only the non-permanent member-states/only the permanent member-states) enjoy the Veto power.

Second Paper

Group A (Answer any four questions)

1. Describe the salient features of the Indian Constitution.

2. Distinguish between Parliamentary and Presidential forms of government. What are the advantages and disadvantages of the Presidential form of government ?

3. Discuss fully the conditions for the success of Democracy. How far are these conditions present in India today ?

4. Discuss the powers and the position of the Prime Minister of India.

5. Discuss the position, the powers and the role of the Governor of a state in India today.

6. Argue the case for and against Universal Adult Suffrage.

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Group B (Answer briefly any two questions)

7. Can India be called a Republic ? Give reasons for your answer.

8. Describe briefly the Emergency powers of the President of India.

9. Discuss the importance of the Party system in Democracy.

10. Describe the powers of the High Court in an Indian State.

Or

How is the independence of the Judiciary protected in a modern state ?

Group C

11. Choose the correct answers and re-write the sentences given below:

- (a) India has (20, 22, 24) states.
- (b) The Governor of an Indian State is (appointed by the President of India/elected by the State Legislature/nominated by the State Cabinet).
- (c) Under the present constitution of India 'Education' is a (Union/State/Concurrent) subject.
- (d) (President/Vice-President/Speaker) is the presiding officer of the Rajya Sabha.
- (e) The Supreme Court of India has (original jurisdiction only/appellate jurisdiction only/both original and appellate jurisdiction, but with no other type of jurisdictions/original, appellate and advisory jurisdictions).

TRIPURA BOARD (+2) EXAMINATION

Political Science

First Paper

1985

1. Answer *any two* :

- (a) Discuss the points of agreement and difference among Hobbes, Locke and Rousseau as expounders of Social Contract Theory.
- (b) Discuss the value and limitations of the theory contained in—"One Nation, One State."
- (c) Describe the composition, functions and role of the U.N. General Assembly.
- (d) Define a State. What are the characteristics of a State ? Is Tripura a State ? Give reasons for your answer.

2. Answer *any four* :—

- (a) Is Political Science really a science ? Give reasons for your answer.
- (b) Discuss the relation of Political Science with Sociology.
- (c) Indicate the difference between the Fundamental Rights and Directive Principles under the Constitution of India.
- (d) "Rights and duties go together".—Explain.



- (e) Write a short essay on the Trusteeship system of the U.N.O.
 - (f) Explain the nature and extent of the Right to Equality guaranteed under the Constitution of India.
3. Write short notes on *any four* :
- (a) Popular Sovereignty
 - (b) Right against Exploitation
 - (c) Difference between Citizen and Alien
 - (d) Economic Right is the basis of Political Right
 - (e) Political Philosophy
 - (f) Uniting for Peace Resolution.

Second Paper

1. Answer *any two* :
- (a) What is meant by Separation of Powers. Explain the value and limitations of the doctrine of Separation of Powers.
 - (b) Describe the characteristic features of a Parliamentary system of Government. What are the essential conditions for the success of this system ?
 - (c) Discuss the powers and position of the President of India
 - (d) Argue the case for and against Universal Adult Suffrage.
2. Answer *any four* :
- (a) Define a Constitution. Indicate the different principles on which Constitutions can be classified.
 - (b) Discuss the importance of Party System in a modern democracy.
 - (c) Discuss the functions of the Legislature in a modern State.
 - (d) Explain the constitutional relation between Lok Sabha and Rajya Sabha.
 - (e) Indicate the different ways in which the independence of the Judiciary can be secured.
 - (f) Discuss *any four* characteristics of the Constitution of India.
3. Write short notes on *any two* :
- (a) Representative Democracy.
 - (b) Method of appointment and removal of Governor.
 - (c) Organs of moulding Public Opinion.
 - (d) Vice-President of India.
 - (e) Art. 356 of the Constitution of India.
 - (f) Composition of the Tripura Legislative Assembly.

